

780
DEDICATION
TO THE
COLLECTIVE BODY
OF THE
PEOPLE OF ENGLAND,
IN WHICH

The Source of our *present* Political Dis-
tractions are pointed out,

And a *Plan* proposed for their Remedy and Redress.

Bertie (Wiltoughby)
BY THE EARL OF ABINGDON.

O X F O R D,

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DEDICATION

TO THE

COLLECTIVE-BODY

OF THE

PEOPLE of ENGLAND.

THAT I should dedicate the following Thoughts to you needs no Comment. The Thoughts themselves are explanatory of the Reason. They were designed for the public Good, and whatever means the public Good, belongs, in common Right, to you: but that I should dedicate these Thoughts to you at this Period of their Publication, and not at first, calls for Explanation.

I have said that these Thoughts were designed for the public Good: but to design is not to effect. From right Intentions right Measures do not of Course proceed. To obtain the public Good was necessary, and this was my Object; but this too is not of certain Consequence.

Infallibility is not the Characteristic of human Science: For although Wisdom and Folly, like Rest and Motion, are correlative Terms, Fools commit Errors, and the wisest Men do err. Still however Truth and Falsehood, Right and Wrong, are in their Natures

fixed and immutable : but these being the Ends of Knowledge, and Wisdom the Means to those Ends, the Means applied are not always adequate to the End pursued.

Of this Doctrine the Application to Myself was unavoidable. The public Good was my Object : But whether I had made Use of the proper Means to that End, or no, was not for me to determine. So far indeed as my Intentions went, of their Rectitude I was conscious : but how far I had succeeded in Ability rested upon the Judgment of others.

To the Judgment of others I appealed, and I called upon the Public, if I was wrong, to set me right. I declared that " Truth being " my only Object herein, I should as readily " look for it in others as seek it in myself ; " and I have waited impatiently for the Event : But notwithstanding five Editions of these Thoughts have been had, and much Time has since elapsed, to this very Hour, not the Colour of Objection, nor the Shadow of Argument have been opposed to them.

These then are the Circumstances under which this Dedication now makes its Appearance to you. What Diffidence had before with-held, acquired Confidence hath since produced ; and as, on the one Hand, if Truth be with me, my Reward will be in its Use to You ; so, on the other, if Error, my Consolation is, that I have been ever ready to retract it.

But having said, that not the Colour of Objection,

Objection, nor the Shadow of Argument have been opposed to these Thoughts; I feel myself obliged to offer a few Words in Answer to one Writer, who has been pleased to honour me with his public Correspondence. This Writer is a Mr. Cartwright, and who, in a Letter addressed to me*, has, supposing me wrong in a Position that I have laid down, called upon me, with great Propriety, for my Justification. I rejoice to meet such Inquiries. They are the Avenues to Truth. And I am no less pleased with the Inquirer. He has written like a Gentleman, and what is more than this, like an honest Man: For, unlike those *anonymous* Writers, whose Fears are lest the Infamy of their Names should increase the Infamy of their Writings, he has affixed his Name to what he has written. It is therefore Matter of Concern to me to find myself mistaken by this Writer: But my Hopes are, that to remove his Mistake will be equally satisfactory to him, as to me.

Mr. Cartwright has made me to say, "that the Colonists have not a Right to Freedom in Trade;"† and this is the Ground upon which my Error is built: but if I deny the Charge, and prove the contrary Assertion on my Part, my Error falls to the Ground.

When it is said, "that the Colonists have

* Vid. A Letter to the Earl of Abingdon discussing a Position relative to a fundamental Right of the Constitution, &c. by John Cartwright. Printed for J. Almon, Piccadilly.

† Vid. Mr. Cartwright's Letter, p. 4.

“not a Right to Freedom in Trade,” and the Page is referred to whence the Quotation is taken; one necessarily supposes to find the Words quoted in the Page referred to: But this is not so. There is not only no such Terms to be there found, nor the Meaning of such Terms, but the very Reverse of both.

To take the Matter fairly, I will give the Words as they are from the Pages referred to, (viz. p. 48, and 49, of the Thoughts). “It may
“be further asked, What! Are the Americans
“to enjoy all the Rights appertaining to this
“Government, and not contribute to its Sup-
“port? I answer, by no Means; it is not
“fitting that they should. The fundamental
“Rights of the English Constitution I have
“shewn to be, *the Security of Life, Liberty, and*
“*Property, and Freedom in Trade*; and to these
“Rights all British Subjects *within the Realm*,
“are without Exception entitled: But it is
“not so with British Subjects *out of the Realm*,
“for of them something more has been re-
“quired, and of them something more has
“been received. They (I mean the Colonists)
“*surrendered*, from the first, one of the fun-
“damental Rights of the Constitution; to
“wit, *Freedom in Trade*. This they gave up,
“and this they *put* into the monopolizing
“Hands of their Brethren, as the Gift of Con-
“tribution for the *Price* of Protection.”

Where then is it here said, “That the Co-
“lonists have no Right to *Freedom in Trade*?”

There

There are no such Expressions. Where is the Meaning? I find no such Ideas. I have said that they *gave up* this Right, that they *surrendered* this Right, that they *put* this Right into the monopolizing Hands of their Brethren, as the *Gift* of Contribution for the Price of Protection: But to do all this they must have been entitled to this Right, for no one can surrender that to another to which he is not entitled himself; and to be entitled to this Right is the very Reverse of the Assertion, "that the Colonists have no Right to Freedom in Trade."

"Aye," says Mr. Cartwright, "but this is a Right which could not be parted with. Freedom in Trade is a fundamental Right of the Constitution, and the fundamental Rights of the Constitution are unalienable." Admitted: but the Manner in which this Right was given up, was no Alienation of it. It was held in a State of Reversion: For *cessat Ratio, cessat et ipsa Lex*. It was a Thing given for a Thing to be received in Exchange. *Quid pro Quo*. Right for Power, Contribution for Protection; and if Protection ceased, (or was withdrawn, as has been the Case) Contribution ceased likewise; and the Right reverted (as it has done) to its native Source.

Besides: This was a Point of speculative Disquisition upon which I did not enter. I spoke to a Matter of Fact. A Fact of public Notoriety, and incontrovertible. A Fact which

Mr. Cartwright himself admits; namely, that this Country did monopolize the Trade of America to the Year 1764.*

Nay more: I spoke from the Offers and Wishes of the Colonists themselves through their Congress, that this *mutual Compact* might continue; (*vide* p. 54, of the *Thoughts*;) and beyond this I did not look. It was not for me to dispute the Powers, nor define the Rights of Congress. I was satisfied with both in their Hands, and I had had too many Proofs of their consummate Wisdom upon these Topics, not to say of them as Hamlet did of his Father's Ghost; "I'll take the Ghost's Word for a thousand Pounds"†

So that although I had been *speculatively* wrong, so far as the Authority of the Congress went, I was *practically* right; and as it further appears that I did not say, nor mean to say, "That the Colonists had no Right to Freedom in Trade," nor yet had a Wish to deprive them of *that*, or of any other *natural* or *political* Right whatsoever to which they were entitled; so I had here (satisfactorily too I should hope) have taken Leave of Mr. Cartwright, if there had not been one Point more remaining, whose Merits I could wish a little to discuss; not only because they do not seem to be thoroughly understood, but because,

* Vid. Letter, p. 10.

† Mr. Cartwright says, "He does not mean to take the Congress at their Word, because," says he, "their Offer exceeded what they could possibly have had legal Powers to fulfil." Vid. Letter, p. 32.

upon their due Solution, the most important constitutional Doctrine hangs.

The Point is this. Mr. Cartwright objects to my calling the Americans, *British* Subjects; and says that they are *American* Subjects: But, as if conscious of an Impropriety, he converts them, by a Note immediately after, into *British American* Subjects.* His Argument is, “ Their Allegiance *to the King* did not make them *British* Subjects: For were that so, then “ would the Hanoverians be *British* Subjects: “ But the Truth is, the People of Hanover are “ his Hanoverian Subjects, the People of Great “ Britain his *British* Subjects, the People of “ Ireland his *Irish* Subjects; and so, in like “ Manner, the People of America *were* his *A-* “ merican Subjects.” And then he subjoins the following Note in Explanation of himself. “ I do not mean to insinuate that Great Bri- “ tain’s Connections with *British* America and “ with Hanover were of the same Nature, “ because I know they agreed only in the sole “ Circumstance of the respective Countries “ having the same Sovereign.”

Now although Mr. Cartwright is a little right herein, in my Opinion he is a great deal wrong; and where his Error is, I will take the Liberty to suggest. It is true, that the Allegiance of the Colonists *to the King* did not make them *British* Subjects: for then, as it is said, the Hanoverians would be *British* Subjects. It is also true, that the People of Ha-

* Vid. Letter, p. 5.

nover are *his* Hanoverian Subjects, the People of Great Britain *his* British Subjects, the People of Ireland *his* Irish Subjects, and that the People of America *were his* American Subjects: But it is *as true*, that the People of Great Britain and the People of Ireland *are*, and that the People of America *were British* Subjects likewise, which the People of Hanover are not; and the Reason of this is, that as *Members of the British Empire* their Allegiance is *annexed* to the *Crown* of England, which constitutes them all *British* subjects equally and alike: Whereas the Allegiance of the People of Hanover is not to the *Crown* of England, but *to the King* of England; thereby making them Subjects *to the King*, but not *British* Subjects. And hence arises the Ground of Mistake upon which Mr. Cartwright seems to have trodden.

The great, the important Line of Distinction, which the Constitution has drawn between the *King* of England and the *Monarchy* of England, or, in more common Phrase, between the *King* of England, and the *Crown* of England, is here totally unnoticed; although upon this Difference not only the understanding of this Point rests, but much other Matter of the last Consequence depends.

That the *King* of England is not the same, in all Respects, with the *Crown* of England, or that, in other Words, the *King* of England and the *Monarchy* of England are separable, and not inseparable; is a Proposition not to be contested:

But

But if it were, there needs no better Examples for its Proof, than those that are before us.

That the People of Hanover are the King's Hanoverian Subjects, and that the People of America *were his* American Subjects, is admitted by Mr. Cartwright; and it is added by me, that the People of America were also *British* Subjects: which (as Mr. Cartwright likewise admits) the People of Hanover are not: But let us try this State of these Examples in the Position of a Case.

Before that bigotted Tyrant James II. had his Crown taken from his Head, and was driven out of this Kingdom, as one unfit to wear that Crown, the People of America were *his* American Subjects; and if we *suppose* that he was also Elector of Hanover, it will follow that the People of Hanover were *his* Hanoverian Subjects: But mark the Difference in the Sequel.

When James II. was driven out of the Kingdom, did the People of America continue *his* Subjects? *No.* When James II. was driven out of the Kingdom, did the People of Hanover continue *his* Subjects? *Yes.* Why? The Reason is plain. The *People of America*, being Members of the *British* Empire, owed Allegiance to the *Monarchy* of the State; and through that Monarchy to the *Monarch*: but in the Instant that the Monarch ceased to reign, although Allegiance continued to the *Monarchy*, it ceased to the *Monarch*. The Facts are true in all their Parts. Upon the Expul-
sion

sion of James II. the People of America were no longer *his* Subjects, but they were still Subjects; for they owed Allegiance to the Monarchy: which Monarchy continued to exist, though without a Monarch* (or otherwise an Appeal must have been made to you as the Collective Body of the People to form another Constitution); and when the Monarchy was filled in the Person of our glorious Deliverer William III, Allegiance vested in him; and the People of America, before Subjects to the Monarchy, now became Subjects to the King. But it was not so with the People of Hanover: For they, *not being Members of the British Empire*, owed no Allegiance to the Crown or Monarchy, but their Allegiance was *personal* to the King, as Elector of Hanover: which Personality James II. carried away with him, and the People of Hanover did not continue Subjects to the King, in the Person of William III.†

From these Circumstances then, the following Corollaries result: That the Allegiance of Subjects is due *to the Crown*, and through the

* In the famous Conference between the Lords and Commons at the Convention, Serjeant Maynard said, "that the Constitution notwithstanding the Vacancy, was the *same*; that the Laws that were the Foundations and Rules of that Constitution were the *same*; but if there was in any particular Instance a Breach of that Constitution, that would be an Abdication, and an Abdication would infer a Vacancy," &c. See Echard's Hist. of Eng. B. 3. ch. 5. p. 1144. Fol. Edit.

† It must be noted, that what is here said of James II. is upon the supposed Fact (which is as conclusive as if real) that he was both King of England and Elector of Hanover. In the Person of George I. the Fact existed, and continues so to do.

Crown, to the King wearing that Crown : * That every Member of the Empire owes Allegiance *to the Crown*, and of course is both a *British* Subject, and a Subject to the *King* : But every Subject to the King is not a Member of the Empire (as in the Case of Hanover), and therefore, not owing Allegiance to the Crown, is not a British Subject : That this Allegiance to the Crown arises out of the Constitution, for it was the Constitution that created the Monarchy; and the Monarchy the King, not the King the Monarchy : That when the King ceases to be King, the Crown retains its Allegiance, and the King does not; for it is the Crown that conveys Allegiance to the King. When James II. was a *Vagabond* in France, the Crown of England gave Allegiance to William III; and of this Sort Precedents in our History are multitudinous, but here superfluous. † And now there being another Species of Allegiance, which, the Constitution

* This Doctrine whilst it destroys the Jesuitical Distinction of a King *de Jure*, and a King *de Facto*, is incontestably proved by the Authorities that Sir William Blackstone quotes, though in Opposition to his own Opinion. Serjeant Hawkins says, " that a King *out of Possession* is so far from having any Right to our Allegiance by " Virtue of any other Title which he may set up against the King " *in Being*, that we are bound by the Duty of our Allegiance to " resist him." Vide Blackstone's Commentaries, v. 4, p. 77, and Hawk. Pl. Cr. B. 1. p. 36. See also Hale's Pl. Cr. B. 1. p. 60.

† The Spensers in the Reign of Edward II. maintained, " That " Homage and Legiance is due to the King, rather in Relation to " the Crown, than absolutely to his Person; because no Legiance " is due to him before the Crown be vested upon him: that if the " King do not govern according to Law, the Lieges in such Case " are bound by their Oath *to the Crown* to remove him either by " Law or Rigour." See Nat. Bac. Disc. part 2. p. 52.

knowing

knowing nothing at all of, I will here just mention in Ridicule and Contempt; and because it is owing to this Innovation, that the Crown of England has lost more than one Half of its Empire. This new-fangled Doctrine is, that Allegiance is due to the Legislature, or to the Parliament, or as the Archbishop of York calls it, by Way of giving the Ton of the Times in a *clandestine Publication** of his, (if I may so speak) "*Allegiance to the State*;" thereby making of every Member of the State a petty King, or petty Tyrant; and taking, as a Member of the State himself, of course Allegiance to himself. But, as I have observed before, Allegiance is due to the Monarchy, and to no other Part of the State; and the Monarchy admits but of one King at a Time, and the Aristocracy and the Democracy of none.

But I have said, that upon the due Solution of the Merits of this Point, the most important constitutional Doctrine hangs; and I will concisely explain myself. The Doctrine, I allude to, is that of the *Attributes* ascribed to the King: Attributes which however strictly just in Institution, by no Means warrant the Inferences that are drawn from them.†

The Case, in a Word, is this. When the

* This Publication was a Sermon which was preached, and printed, and handed about: But not advertized in the public Prints, nor sold.

† These Inferences are, that "the King can do no wrong" that "the King never dies," that "the King is always a Minor," &c.

Constitution of England was formed, a Combination of the three Forms of Government (viz. Monarchy, Aristocracy, and Democracy) for the Purpose of one, being, as is evident therefrom, the Object of Settlement; it was not only necessary that the Rights appertaining to each Form should remain, but that these Rights should be clearly ascertained, in order to produce, by their separate Counteractions, the great Designation of their Union.† To the Monarchy then was given *Sovereignty*, *Perfection*, and *Perpetuity* as Attributes, in the *Abstract*, essential to its Existence: For without Sovereignty, Power had no Source of Derivation, without Perfection Error, which was to be avoided, was imputable; without Perpetuity what was meant to last was subject to Annihilation; and therefore such were the constitutional Attributes of the Monarchy: but because these Attributes were so predicated of the Monarchy, does it therefore necessarily follow that they are the existing Qualities of the Monarch? An Example will afford the best Proof, and one Example will suffice for all the Rest.

From the abstract Attribute of Perfection in the *Monarchy*, it is inferred, “that the *King* can do no wrong;” and, in Illustration of this Doctrine, Sir William Blackstone lays it down,

† “In a Constitution like ours, the Safety of the Whole depends “on the Balance of the Parts; and the Balance of the Parts on “their mutual Independency on one another.” Vide Boling. Rem. Hist. of Eng. Oct. Ed. p. 30.

that

that " the *King* is not only incapable of doing
 " wrong, but even of thinking wrong : He can
 " never mean to do an improper Thing : In
 " him is no Folly or Weakness."* But let us see
 how this Westminster-Hall Inference, (for it is
 called a *legal Maxim*) and its Comment agree
 with the Constitution, with Nature, with
 Reason, with Common Sense, with Expe-
 rience, with Fact, with Precedent, and with
 Sir William Blackstone himself; and whether,
 by the Application of these Rules of Evidence
 thereto, it will not be found; that (from the
 Want of Attention, as I have taken Notice of
 before, to that important Line of Distinction
 which the Constitution has drawn between
 the *King* of England, and the *Crown* of Eng-
 land) what was attributed to the *Monarchy*
 has not been given to the *Monarch*, what
 meant for the *Kingship* conveyed to the *King*,
 what designed for the *Thing* transferred to the
Person, what intended for *Theory* applied to
Practice; and so in Consequence that whilst
 the Premises (of the *Perfection* of the Mo-
 narchy) be true, the Conclusion (that the
 King can do no wrong) be not false. †

* Vid. Black. Comm. v. 1. p. 246. This Comment upon the Text
 that " the King can do no wrong," might have passed well enough
 in the Reign of James I.; and no doubt would have been very ac-
 ceptable to that *learned Idiot*: But it is now a Century and a Half
 since that Reign, and " Mankind being," according to Doctor
 Priestly, " in a progressive State of Improvement," are of Course a
 Century and a Half wiser. Vid. Priestly on Government, p. 2.

† " How easily does the Worship of the *Divinity* degenerate into
 " a Worship of the *Idol*?" Vid. Hume's Essays, p. 46.

And

And first in Reference to the Constitution : To which if this Matter be applied (meaning what it expresses, and if it do not it is unworthy of Notice) it is subversive of a Principle in the Constitution, upon which the Preservation of the Constitution depends ; I mean the Principle of *Resistance* : A Principle which, whilst no Man will now venture to gainsay, Sir William Blackstone himself admits, “ *is justifiable to the Person of the Prince* when “ the Being of the State is endangered, and “ the public Voice proclaims such Resistance “ necessary ;” and thus, by such Admission, both disproves the Maxim, and oversets his own Comment thereupon : For to say that “ the King can do no wrong,” and that “ he “ is incapable even of thinking wrong,” and then to admit that “ Resistance to his Person “ is justifiable,” are such jarring Contradictions in themselves, that until reconciled, the Necessity of Argument is suspended. *

With Respect then, in the next Place, to the Agreement of this Maxim and its Comment with Nature, with Reason, and with Common Sense, I should have thought myself sufficiently justified in appealing to every Man’s own Reflection for Decision, if I had not been made to understand that Nature, Reason, and Common Sense had had nothing to do with either. Sir William Blackstone says, “ That though a philosophical Mind will con-

* Vid. Blackstone’s Comm. v. 1. p. 251.

“sider the royal Person merely as one Man
 “appointed by mutual Consent to preside
 “over others, and will pay him that Reve-
 “rence and Duty which the Principles of So-
 “ciety demand, yet the Mass of Mankind will
 “be apt to grow insolent and refractory if
 “taught to consider their Prince as a Man of
 “no greater Perfection than themselves; and
 “therefore the Law ascribes to the King, in
 “his high political Character, certain Attri-
 “butes of a great and transcendant Nature,
 “by which the People are led to consider him
 “in the Light of a *superior Being*, and to pay
 “him that awful Respect which may enable
 “him with greater Ease to carry on the Bu-
 “siness of Government.” So that, in order
 to govern with greater Ease, (which by the
 bye is mere Assertion without any Proof) it
 is necessary to *deceive* the Mass of Mankind,
 by making them believe, not only what a phi-
 losophical Mind cannot believe, but what it is
 impossible for any Mind to believe; and there-
 fore in the Investigation of this Subject, accord-
 ing to Sir William, neither Nature, Reason,
 nor Common Sense can have any Concern.

But however desirous I might be to yield
 up my Senses, to the Authority of so great a
 Man; I am from the same Authority, with-
 held from doing so: For if I could believe
 that the King was a *superior Being*, I should
 have no Hesitation to believe a Doctrine, which
 Sir William himself explodes; and explodes
 because

because repugnant “*to common Reason* :” I mean the Doctrine of “*the Divinity of regal Sway*,” which James I, and the Rest of his Race, thought fit to assume to themselves. I say I should not hesitate at this, because the one necessarily follows from the other. If James I. was a *superior Being*, his Government was *de jure divino*; and if it be necessary to impose a Belief on the Mass of Mankind in the former Instance, why should it not be equally necessary in the latter? The Cases do not seem to me to differ, though Sir William’s Sentiments do upon them; and therefore being thus left at my Option, I must own I cannot countenance Politics of such a Complexion. They may be the Politics of *Machiavel*, but, I am sure, they are not the Politics of *John Bull*. *Sum Davus non Oedipus*, says honest John; and “Honesty is the best Policy” with him.* It is the only Policy of our Government, and if this Knowledge were not as old as the Government itself, a modern Proof would afford the fullest Conviction. Contrast the Administration of that *virtuous* Statesman, the late Earl of Chatham, with that of the present *notorious* Minister, whoever he be; † and the Demonstration of

* “*Hæc Romana esse*,” says Livy, “*Non versutiarum Punicarum, neque Calliditatis Græcæ, apud quos fallere Hostem gloriosus, dolo quam Virtute.*”

† Lord North has repeatedly declared in the House of Commons “that he never looked upon himself in the Light of Minister, that he was no more than the Servant of the Public, whose Councils it was his Business to execute and not to direct;” and to this Declaration his Lordship has, in the same Manner, added this prudent Resolution, “that (without Responsibility, and although the Councils

Euclid will follow. The *former*, by knowing that "Honesty *was* the *best* Policy," and by making that the Rule of his Administration, brought this Country to a Pitch of Glory, Grandeur, and Power, unknown to any other State antient or modern: The *latter*, by believing that "Honesty *was* the *worst* Policy," and by making that the Rule of his Ministry, has reduced this once proud Empire to the contemptible Level of the Minister himself.

It remains to examine in how much this Maxim and its Comment agree with Experience, with Fact, with Precedent, and with Sir William Blackstone himself. And here it is Matter of most curious Speculation, to observe a Maxim laid down, and which is intended for a Rule of Government, not only without a single Case in support of it, but with a String of Cases that may be carried back to *Egbert* the first Monarch of England, in direct Opposition to the Doctrine. Who is the Man, that reading the *past* History of

which he is to execute be fatal to the Interests of the Nation) "he will not resign, but will continue to hold the Office of Prime Minister," and of Course to enjoy the Honours and Emoluments that are to be derived from it. How different the Earl of Chatham! The Earl of Chatham *resigned* his Office, because he would not be answerable for Measures that he did not direct; Lord North *holds* his Office, because he neither directs the Measures nor is answerable for them. But it is in this Instance alone, that any Comparison between these two Characters is intended: for Lord Chatham was Minister in Fact as well as in Office, and as such the People looked up to him; whilst Lord North openly confesses his own mere Ostensibility, and the People look down on him as one, whose sole Occupation is, by the mere Dint of *Joke* from the Treasury Bench, to get their Money into the Treasury. And in this it must be owned, *no* *Servant of the Public* ever *outjoked* his Lordship.

this

this Country, will shew us any King that has done no wrong? Who is the Reader that will not find, that all the Wrongs and Injuries which the free Constitution of this Country has hitherto suffered, have been solely derived from the arbitrary Measures of our Kings? And yet the Mass of Mankind are to look upon the King, as a superior Being; and the Maxim that "the King can do no wrong," is to remain as an Article of Belief. But without pushing this Inquiry any further, let us see what Encouragement Sir William Blackstone himself has given us for our Credulity. After stating the Maxim, and presenting us with a most lively Picture, "of our sovereign Lord thus *all perfect and immortal*," what does he make this All-perfection and Immortality in the End to come to? * His Words are these: "For when King Charles's deluded Brother attempted to *enslave the Nation*," (*no Wrong this, to be sure*) "he found it was beyond his Power: the People both COULD, and did resist him: and in Consequence of such Resistance, obliged him to quit his Enterprize and his Throne together." †

The Sum of all is this: That the Crown of England and the King of England are distinguishable, and not synonymous Terms: That Allegiance is due to the Crown, and through the Crown to the King: That the Attributes of the Crown are Sovereignty, Perfection,

* Vide Blackstone's Comm. v. 1. p. 259. † Id. v. 4. p. 433.

tion, and Perpetuity; but that it does not therefore follow, "that the King can do no wrong." It is indeed to be admitted, that in high Respect for the Crown, high Respect is also due to the Wearer of that Crown; that is, to the King: But the Crown is to be preferred to the King, for the first Veneration is due to the Constitution. It is likewise *to be supposed*, that the King *will* do no wrong; and as to prevent this, a Privy Council is appointed by the Constitution to assist the King in the Execution of the Government, so if any Wrong be done, "these Men," as Montesquieu expresses it, "may be examined and punished".*

But if any future King shall think to screen these evil Counsellors, from the just Vengeance of the People, by becoming *his own Minister*; and, in so doing, shall take for his Sanction, "*the Attribute of Perfection*," shall trust to the Deception of his being "*a superior Being*," and cloak himself under the Maxim, that "*the*

* Except the Parliament, which is the great Council of the Nation, the Judges, and the Peers, who, being the hereditary Counsellors of the Crown, have not only a Right, but are bound in *Foro Conscientiæ* to advise the King for the public Good; the Constitution knows of no other Council than the *Privy Council*. Any other Council, like Clifford, Arlington, Buckingham, Ashley, Lauderdale, and as the Initial Letters of these Names express, is a C A B A L, and as such should be suppressed. Nat. Bacon, speaking of the Loss of Power in the grand Council of Lords, says, "The Sense of State once contracted into a *Privy Council*, is soon re-contracted into a *Cabinet Council*, and last of all into a *Favourite* or two; which many Times brings Damage to the Public, and both *themselves* and *Kings* into extreme *Precipices*; partly for Want of Maturity, but principally through the Providence of God over-ruling irregular Courses to the Hurt of such as walk in them." Pol. Disc. part 2. pag. 201.

"*King can do no wrong*;" I say, in such a Case, let the Appeal already made to the Constitution, to Nature, to Reason, to Common Sense, to Experience, to Fact, to Precedent, and to Sir William Blackstone himself suffice; and preclude the Necessity of any further Remarks from me.*

Having thus explained the Reason of this Dedication to you, and having removed the only seeming Obstacles that have been thrown in my Way, with such Observations and Remarks upon them, as may be found perhaps not altogether impertinent; I now come to say a Word or two more in Addition to the Thoughts themselves, as tending not only to their Elucidation, but as serving, more directly, to point out the Source of our present Political Distractions, in order to their Remedy and Redress.

In the Course of the following Thoughts, the principal Object of Consideration has been the Doctrine of "the Omnipotency of Parliament:" But as the Importance of this Doctrine rises, in Proportion to the Attention that is given to it, so a Renewal of the Subject here,

* For Experience, Fact, and Precedent, see the Reigns of King John, Henry III. Edward II. Richard II. Charles I. and James II. See also *Mirror of Justices*, where it is said, "that this grand Assembly (meaning the now Parliament or then *Witten-gemotte*) is "to confer the Government of God's People, how they may be kept "from Sin, live in Quiet, and have Right done them, according to "the Customs and Laws; and more especially of *Wrong done by "the King, Queen, or their Children*:" To which Nat. Bacon adds this Note, "At this Time *the King might do wrong*, &c. and "so say Bracton and Fleta of *Kings in their Time*." Disc. part 1. pag. 37. Lond. 1739.

and to which alone I mean to confine myself, will not, I trust, be thought a Work of Supererogation in me; nor yet, leading as it does to a proposed Plan of Reformation, will it prove without its Use to you.

The Doctrine itself is, as I have just stated it to be, that of "the Omnipotency of Parliament;" and it is under this Head that I now mean to consider it: But it having made its Appearance to the World under other Topics of Argument differing in Expression, according to its different Assertors, though agreeing in Sentiment; it may not be amiss that each be brought in Conjunction with the other, that all in one collected View may be seen. By one then, it has been called "the Supremacy of Parliament:" by another, "the Right of Parliament to *unlimited* Power in and over the "whole British Empire:" By a third, "a Right "to bind by Act of Parliament *in all Cases* "*whatsoever*;" and so says a modern Statute of itself: By a fourth, it is said, "that the "Legislative Authority of King, Lords, and "Commons is as *despotic* over all Britons, let "them live wherever they please, as the "Grand Turk is over his own Subjects." And again, "Absolute Despotism must lodge somewhere, and nothing can be more unlimited "in Power than an Act of Parliament:"* And lastly, as if to concenter all possible Powers

* See Political Essays printed for W. Strahan, and T. Cadell in the Strand, 1762. pag. 39.

into one, the Phraseology adopted is, "the Omnipotence of Parliament." And which I mention again, last as well as first, because the Weight of Authority whence this Position is derived has, I am led to think, not only established this Doctrine in Theory, by the implicit Faith of others therein, but has proved too the unhappy Foundation of its Practice.*

Such I say then is the Doctrine, and these the Terms of Language in which it has been conceived and expressed: But I may now perhaps be told, that if such Weight be due, as I have admitted, to the Authority upon which this Doctrine seems to rest; it is, at least, a Mark of Presumption in me, under any Circumstances, to controvert, or in any Shape, to raise Objections thereto. And of this Reproof, so far as it goes, there is no one who more sensibly feels the Impression than myself. But my Justification being grounded on a Maxim of long Influence over my Conduct, that to Precedents not founded on Right, and to Authority, however great, not supported by Reason, no *Deference* is due; † this will lead me to the Application of this Maxim to the present Case, and of Course to an Examination of the Subject more particularly and in Detail.

* Mr. Addison says, "Most of our Fellow-subjects are guided either by the Prejudice of Education, or a *Deference* to the Judgment of those who, perhaps, in their own Hearts, disapprove the Opinions which they industriously spread among the Multitude."

† This Maxim is, to those who adopt it, the Exception to Mr. Addison's Rule.

The Authority alluded to, I am already anticipated in saying, is that of Sir William Blackstone; for to whom can such Weight be due if not to the learned Author of the Commentaries on the Laws of England! But to this Authority it is now necessary, from these Commentaries, to add the following Quotation; that the one may support the other, and that both may stand the Test of Inquiry. "The Power and Jurisdiction of Parliament," says Sir Edward Coke, "is so transcendent and absolute, that it cannot be confined, either for Causes or Persons, within any Bounds.* And of this high Court" (of Justice, I think Sir Edward calls it) he adds, "it may be truly said, *Si Antiquitatem spectes, est vetustissima; si Dignitatem, est honoratissima; si Jurisdictionem, est capacissima.* It hath so-vereign and uncontrollable Authority in making, confirming, enlarging, restraining, abrogating, repealing, reviving, and expounding of Laws, concerning Matters of all possible Denominations, ecclesiastical, or temporal, civil, military, maritime, or criminal: this being the Place where that absolute despotic Power, which must in all

* This Quotation from Sir Edward Coke is stated by Judge Hales in the following Manner: "Of the Power and Jurisdiction of Parliament for making of Laws in proceeding by Bill, it is so transcendent and absolute, as it cannot be confined either for Causes or Persons within any Bounds." The Words for making of Laws in proceeding by Bill are omitted by Sir William Blackstone: The Insertion of which is, *quoad hoc*, a plain Limitation of the Power of Parliament; whereas its Omission is insomuch an Enlargement of that Power. See Hales of the Original Institution of Parl. p. 46.

" Governments

Enlargement

“ Governments reside somewhere, is entrusted
 “ by the Constitution of these Kingdoms.
 “ All Mischiefs and Grievances, Operations
 “ and Remedies, that transcend the ordinary
 “ Course of Laws, are within the Reach of
 “ this extraordinary Tribunal. It can regu-
 “ late or new model the Succession to the
 “ Crown, as was done in the Reign of Henry
 “ VIII. and William III. It can alter the
 “ established Religion of the Land, as was
 “ done in a Variety of Instances, in the
 “ Reigns of Henry VIII. and his three Chil-
 “ dren. It can change and create afresh even
 “ the Constitution of the Kingdom, and of
 “ Parliaments themselves; as was done by
 “ the Act of Union, and the several Statutes
 “ for triennial and septennial Elections. It
 “ can, in short, do every Thing that is not
 “ naturally impossible; and therefore some
 “ have not scrupled to call its Power, by a
 “ Figure rather too bold, *the Omnipotence of Par-*
 “ *liament.* True it is, that what Parliament
 “ doth no Authority upon Earth can undo.”*

This is the Quotation. But what is there
 in this Quotation that is decisive of the Doc-
 trine intended to be laid down therein? I
 will examine its several Parts. And, *First*, it
 consists of an Appeal to the Authority of Sir
 Edward Coke: *Secondly*, it rests on Precedents:
 and, *Thirdly*, it contains, without Argument

* Vide Blackstone's Comm. vol. i. pag. 161. for what further is said upon this Subject.

or Reasoning, without Principles or Maxims, the bare Assertion and Opinion of Sir William himself. "True it is," says Sir William, "that what Parliament doth, no Authority upon Earth can undo."

Of the *first* then, the Appeal to Sir Edward Coke is but an Appeal from one Authority to another; and as such is to be regarded only: But here the Question is, does the Authority of Sir Edward Coke give Sanction to this Appeal? Or, in other Words, does it furnish such Premises as warrant the Conclusions that Sir William has drawn from it? I think not; and I reason thus. That the Power and Jurisdiction of Parliament, in the Exercise of those Rights which the Constitution hath established, is *transcendent* and *absolute*, is not to be disputed; but to be *transcendent* and *absolute* is not to be *despotic*, as Sir William hath inferred: for in Despotism the very Idea of Rights is excluded. And that this was the Meaning of Sir Edward Coke must be presumed, or Sir Edward will be found to have contradicted himself; for he hath said too, (and if his Authority is to be taken in one Instance, it must be received in another) "That the Common and Statute Laws of England are, in the Mass and Bulk of them *unalterable*."* So that if the Power and Jurisdiction of Parliament was *despotic*, the Mass and Body of the Laws of England

* 2 Inst. pag. 187. Bracton. W.

could

could not be *unalterable*; for the Power of Despotism is *unlimited*: but the Mass and Body of the Laws of England are, according to Sir Edward, *unalterable*; and therefore, according likewise to Sir Edward, the Power and Jurisdiction of Parliament cannot be *despotic*: for each Assertion contradicts the other, and “*Dua contradictoria non possunt simul esse vera.*”

But to illustrate this Matter by Example. An Act of Parliament passes, declaratory of the Right of the Subject to Trial by Jury; and declares, that, Whereas the Chief Justice of the Court of King's Bench hath assumed to himself the Power of determining by his Decision Matters cognizable only to Juries, to the Suppression of Trial by Jury, and to the Introduction of the Tyranny of the Civil Law in Exclusion of the Liberty upheld by the Common Law of the Land;* Be it therefore enacted, and it is hereby enacted and declared, That Trial by Jury is, and ever hath been, an original and fundamental Right of the Constitution established *per Legem Terræ*, unalterable and irrevocable but by a Conven-

* “About the Year 1666 the Lord Chief Justice Kelyng was “questioned in Parliament for over-awing and putting a Restraint “upon Juries; and the House came to several Resolutions upon his “Case, and ordered him to be prosecuted: But by Reason of the “House being prorogued, and he himself not long after dying in “Discontent, we do not find there were any further Proceedings “made therein.” Triumphs of Justice, fol. Lond. 1681. p. 29, 36.

Cardinal Wolsey too by his endeavouring to introduce the *Imperial Laws*, and by an exorbitant Use of his Legatine Power, lost all and died in Ignominy and Disgrace. 4 Inst. 89. 3 Inst. 208.

tion of the People (as at the Revolution)* intending an Alteration therein, and agreeing thereto, &c. &c.

In this Act then it is plain, that the Power and Jurisdiction of Parliament is *transcendent* and *absolute*, but not *despotic*; for nothing derogatory to the Constitution is enacted therein: but on the contrary, whilst the Act is founded upon, and *grows out of the Constitution*,† over which the Power and Jurisdiction of Parliament is by Institution placed for Protection, it shews demonstratively what that “supreme Legislative Authority of Great Britain,” so much talked of, and yet so little understood, is; and which, when considered in this Light, is certainly so far “not to be confined, either for Causes or Persons, within any Bounds,” that from the very Nature of Society, as well as by Compact, the whole Force of the Empire is bound to support it.

But let the Weights be now placed in the opposite Scale, and suppose an Act of Parliament to pass to the following Effect; That whereas it hath been found by our trusty and well-beloved Chief Justice of the Court of King’s-Bench that Trials by Jury, although an

* “The Settlement at the Revolution was made by a Convention of the Lords Spiritual and Temporal, and a *full and free* Representative of the *whole Body* of the People.” See Dissertation on Part. pag. 129.

† Junius says, “Be assured that the *Laws*, which protect us in our Civil Rights, *grow out of the Constitution*, and that they must fall or flourish with it. See Junius’s Letters, Dedic. p. 3.

original and fundamental Right of the People established by the Constitution, and supported by the Law of the Land, are become inconvenient and of Hindrance to the present Object of Government, and that the *Decretals* of Judges in the Stead thereof will be better suited to the End proposed; Be it therefore Enacted, and it is hereby Enacted, &c. &c. Now by this Act the Power and Jurisdiction of Parliament is not only *transcendent* and *absolute*, but it is *despotic*. It is to assume a Power to which it is not by Right entitled. It is Usurpation. It is to take away that, which, by Institution, it was designed to protect. It is to destroy, and not to preserve a Right. And therefore such an Act of Parliament is not only *ipso facto* illegal and void, but the whole united Force of the Community is bound to oppose it; to demand its Repeal; and to pursue the Framers thereof to the same condign Punishment, that the great Hampden did Charles the First, for his illegal and unconstitutional Proceedings.

So much then for the Appeal to the Authority of Sir Edward Coke. And now, secondly, for the Precedents quoted; of which enough having been said, "as importing no Authority but upholding Error," in the Thoughts themselves, I shall here content myself with a short Question or two only in Remark upon them.

If the Alteration from triennial to septennial
Elec-

Elections be produced by Sir William as a Precedent to determine the Omnipotence, or Right of Parliament, "to change and create afresh the Constitution;" may not this same Omnipotence "change and create afresh the Constitution" by another Act of Parliament, and declare the House of Commons independent of the People, and *perpetual*? And will Sir William venture to say that Parliament hath a Right to do this? I must answer, Most certainly: Or, otherwise, Omnipotence is no longer omnipotent. But Sir William hath already said so: For he hath affirmed "that what Parliament doth no Authority upon Earth can undo," and so of Course if this be done, it cannot be undone; though in Consequence thereof, *Actum est de Republicâ*. But it may be objected, that this is an *unreasonable* Supposition; and perhaps it is: And yet even this is no Argument with Sir William: For he tell us in another Place, "That if Parliament will positively enact a Thing to be done which is *unreasonable*, I know of no Power that can controul it."* And therefore saith the Omnipotence of Parliament, through the Breath of Sir William; I will enact what is *unreasonable*, and you the Collective-Body of the People of England shall receive it as *reasonable*. I will make the King *absolute*, and the House of Commons *perpetual* to register his Edicts, and you shall

* See Blackstone's Comm. v. i. p. 91.

submit to both. I will substitute Slavery for Liberty, and the Exchange shall be approved. In short, I will be *arbitrary*: For am I not “that absolute *despotic* Power which must in “all Governments reside somewhere?”

Such is then, and such must be, the Language of “the Omnipotency of Parliament;” and yet to what Purpose, or how in the Nature of Things, or in Common Sense, an *arbitrary Power* can, by any possible Construction, be said to exist in a *free State*, as ours is, founded upon Rights *natural* and *political*, and supported by a Constitution,* Sir William has no where, that I know of, explained in Argument. And therefore I proceed *thirdly* to the Consideration of the bare Assertions and Opinion of Sir William, as stated in the Quotation from his Commentaries; and which being Matter of Authority only in him, I shall take the Liberty to answer by the Authorities of others in Opposition thereto.

And first I should have begun with the Authority of Mr. Locke, but Sir William having set him down, in one Place, as a mere Theorist, in another as a visionary Republican, and in a third, together with Milton and Sidney,

* “It was this Depravity of the Few, (which is oftner the “greater, because born no better than other Men, they are educated worse) which obliged Men first to subject *Government to Constitution*, that they might preserve *social*, when they gave up *natural Liberty*, and not be oppressed by *arbitrary Will*.” See Dissert. on Parties, Octavo Edition, pag. 144.

in the Company of Watt Tyler and Jack Cade,† I shall in Respect to Sir William, pay no Attention whatever to this Authority; though Sir William has not himself forbore to do so, with Expressions of much Satisfaction, when it answered his Purpose.* But I shall have recourse to the Authority not of a visionary Republican, but of a rank Tory; as for that Reason the most unimpeachable that can nowadays be produced: I mean the Lord Bolingbroke, from whose Works the following Quotation is taken.‡ “ Thus the Col-

† It is upon the Principles of this said Jack Cade, who was an Irishman, that his Countrymen in Ireland are now acting. And it were much to be wished, if these Principles of his be what Rapin relates of them, that the Irish would be so good as to spare poor old England a few of Jack's Descendants; as the Breed of the Lockes, the Miltons, and the Sydneys are almost entirely extinct here. Rapin says, “ The King having Notice of the Approach of the Rebels, sent to know the Reason of their appearing thus in Arms. Cade answered for all, that they had no *ill Design upon the King's Person*. That their Intention was to petition the Parliament, that *evil Ministers* might be *punished*, and the People rendered more happy than of late Years. A few Days after, they presented to the Parliament two Petitions, setting forth the Grievances of the Nation. Among other Things they prayed that the Duke of Somerset might be punished as being the principal Author of the *Loss of Normandy*. (AMERICA.) That the King's Council might be filled with the *Princes of the Blood*, and other prudent and judicious Persons, and not with *vicious and profligate Men*, of ill Principles, and Manners, and incapable of managing the Affairs of the State.” See Rapin's Hist. of Eng. vol. i. p. 574. Fol. Edit. It is to be presumed that no one will dare to deny the Constitutionality, as well as Legality of these Principles, their Appositeness to the present Times, and the Necessity of their being adopted for the Salvation of the Country.

* See Blackstone's Commentaries, vol. i. pages 161, 213, 243; 252, and vol. iv. pag. 427. for the above References.

‡ Although Lord Bolingbroke was in his Habits of Life, and in Practice, both a Tory and a Jacobite; he was in Speculation, from the early Impressions that had been made on his Mind (for he was

lective

"lective-Body of the People of Great-Britain
 "delegate, but do not give up; trust, but do
 "not alienate their *Right*, and their *Power*;
 "and cannot be undone by having Beggary,
 "or Slavery brought upon them, unless they
 "co-operate to their own undoing, and in
 "one Word betray themselves. We cannot
 "therefore subscribe to those two Sayings of
 "my Lord Bacon, which are quoted to this Ef-
 "fect: That England can never be undone,
 "unless by Parliaments; and that there is
 "nothing which a Parliament cannot do."
 "Great-Britain, according to our present Con-
 "stitution, cannot be undone even by Parlia-
 "ments; for there is something, which a Par-
 "liament cannot do. *A Parliament cannot annul*
 "*the Constitution*; (Sir William says the Par-
 "liament may alter and create afresh the
 "Constitution;") and whilst that is preserved,
 "though our Condition may be bad, it cannot
 "be irretrievably so. The Legislative is a *su-*
 "*preme*, and may be called in one Sense an
 "*absolute*, but in none an *arbitrary* Power. If
 "you therefore put so extravagant a Case as
 by Connexion as well as Education a Whig) not only one of the
 wisest Statesmen and ablest Politicians that ever lived, but he was
 the best informed, and most comprehensive Writer on the English
 Constitution of any that ever wrote on that Subject: Insomuch so,
 that his Political Works are now the very School of English Politics,
 and the Prophecies of the present Times; and yet such has been
 the wretched Use made of them, that those very Principles and
 Measures of Government which, if not avoided, he shewed to De-
 monstration, would prove the certain Ruin and Destruction of the
 Constitution, those very Principles and Measures the *confidential*
 Servants of his present Majesty have implicitly adopted, and with
 unremitting Perseverance pursued. See Dissert. on Part. p. 270.

“ to suppose the two Houses of Parliament
 “ concurring to make at once a formal Cession
 “ of their own Rights and Privileges, and of
 “ those of the whole Nation to the Crown, and
 “ ask who hath the Right and Means to resist
 “ the supreme Legislative Power ; I answer the
 “ whole Nation hath the Right, and a People,
 “ who deserve to enjoy Liberty, will find the
 “ Means. An Attempt of this Kind would
 “ break the *Bargain* between the King and the
 “ Nation, between the *Representative* and *Collec-*
 “ *tive* Body of the People, and would dissolve
 “ the Constitution.”* Such is the Doctrine
 of Lord Bolingbroke.

The next Authority is that of the Reverend
 Doctor Hurd, now Bishop of Litchfield and
 Coventry ; and who, in one of his Dialogues,
 makes Sir J. Maynard to say ; “ I willingly
 “ omit, as superfluous, what in a worse cause
 “ might have been thought of no small Weight,
 “ the express Testimony of our ablest Lawyers
 “ to the *Freedom* of the Constitution. I do
 “ not mean only the *Cokes* and *Seldens* of our
 “ Time (though in Point of Authority what
 “ Names can be greater than theirs?) But
 “ those of older, and therefore more reverend
 “ Estimation ; such as *Glanvil*, *Bracton*, the
 “ Author of *Fleta*, *Tborton*, and *Fortescue* : Men
 “ the most esteemed and learned in their seve-
 “ ral Ages ; who *constantly* and *uniformly* speak
 “ of the *English* as a *mixed* and *limited* Form

* See Dissert. on Parli. pag. 270.

“ of Government, and even go so far as to
 “ seek its Origin, where indeed the Origin of
 “ all Governments must be sought, in the
 “ Free-Will and Consent of the People.” His
 Lordship afterwards says in a Note, as from
 himself, “ By the *free Constitution* of the *English*
 “ Monarchy, every Advocate of Liberty, that
 “ understands himself, I suppose means, *that*
 “ *limited Plan of Policy*, by which the supreme
 “ Legislative Power (including in this general
 “ Term the Power of levying Money) is lodged,
 “ not in the Prince singly, but jointly in the
 “ Prince and People ; whether the popular
 “ Part of the Constitution be denominated
 “ the King’s or Kingdom’s great Council, as
 “ it was in the proper feudal Times ; or lastly,
 “ the two Houses of Parliament, as the Style
 “ has now been for several Ages.” *

A third Authority is that of Junius, † who

* See Moral and Political Dial. vol. ii. p. 222, and p. 327. It is impossible to speak of this Author, without the greatest Reverence and Respect ; without Gratulation to this Country, that, as Preceptor to the Heir apparent of the Crown, he is now obliterating from the Prince’s Mind, those slavish and monkish Doctrines, that have been heretofore impressed upon it ; nor without the most earnest Request to him from all good Men, from every Friend to Liberty, which is the Friendship of Humanity, that he would now come forth, and by his Knowledge and Situation, both of which set him far above his Fellows, wrest from the profane Hands of those that Constitution, which by them is now about to be offered up in Sacrifice upon the Altars of Ignorance and Tyranny. His Lordship has said, “ that a right good *Constitutional* History of England would be the “ noblest Service that any Man duly qualified for the Execution of “ such a Work could render to his Country.” His Lordship has proved himself to be qualified, the Service is only wanting.

† I am extremely concerned to be obliged to call this admirable Writer by a fictitious Name : But at the same Time, if he be alive, and has not prevented, in Times such as these are, my feeble Ef-

says, " The Power of King, Lords, and Com-
 mons is not an *arbitrary* Power. They are
 " the Trustees, not the Owners of the Estate.
 " The Fee-simple is in *us*. They cannot alie-
 " nate, they cannot waste. When we say
 " that the Legislature is supreme, we mean
 " that it is the highest Power known to the
 " Constitution;—that it is the highest in
 " Comparison with the other subordinate
 " Powers established by the Laws. In this
 " Sense the Word Supreme is relative not
 " absolute. The Power of the Legislature
 " is *limited*, not only by the general Rules
 " of natural Justice, and the Welfare of the
 " Community, but by the *Forms and Principles*
 " of our particular Constitution. If this
 " Doctrine be not true, we must admit that
 " King, Lords, and Commons have no Rule
 " to direct their Resolutions, but merely their
 " own Will and Pleasure. They might unite
 " the legislative and executive Power in the
 " same Hands, and dissolve the Constitution.
 " But I am persuaded that you will not leave
 " it to the Choice of seven hundred Persons
 " notoriously corrupted by the Crown, whe-
 " ther seven Millions of their equals shall be
 " Freemen or Slaves." And again: " There
 " cannot be a Doctrine more fatal to the
 " Liberty and Property we are contending for
 " than that, which confounds the Idea of a
 sorts in the public Service, by the Exercise of his superior Talents,
 Junius deserves every Curse and Calamity " that human Flesh is
 " Heir to."

supreme

“ *supreme* and an *arbitrary* Legislature. I need
 “ not point out to you, the fatal Purposes to
 “ which it has been, and may be applied. If
 “ we are sincere in the Political Creed we pro-
 “ fess, there are many Things, which we
 “ ought to affirm, cannot be done by King,
 “ Lords, and Commons.” *

A fourth Authority is that of the great
 Earl of Chatham, who, in one of those many
 unparalleled Speeches of his in the House of
 Lords, said, “ Resistance to your Acts was
 “ *necessary* as it was *just*; and your *vain* Decla-
 “ rations of *the Omnipotence of Parliament*, and
 “ your *imperious* Doctrines of the Necessity of
 “ Submission, will be found equally impotent
 “ to convince or enslave your Fellow-subjects
 “ in America; who feel that *Tyranny* whether
 “ *ambitioned* by an *individual Part* of the Legis-
 “ lature, or *the Bodies who compose it*, it is equally
 “ intolerable to British Subjects. The Means
 “ of enforcing this *Thralldom* are found to be
 “ as *ridiculous* and *weak* in *Practice*, as they are
 “ *unjust* in *Principle*. †

* See Junius's Letters, vol. i. Ded. p. 4. and vol. ii. p. 353.

† See *Genuine* Abstracts from two Speeches of the late Earl of Chatham, and his Reply to the Earl of Suffolk, pag. 5. Printed for J. Dodsley, Pall-Mall. It was from these Principles that this great Constitutionalist, on the Occasion of a Bill being brought into Parliament for declaring the *Independency* of America, said, with Exclamation, in the House of Lords; “ Let me see that Act of
 “ Parliament that can disinherit the Prince of Wales of his Heredi-
 “ tary Dominions in America?” Meaning to say, that no Act of Parliament could of Right, concede Independence to America. The Crown may treat with America on Terms of Independence, and the Parliament may counsel the Crown to do this; the Crown may negotiate a Treaty of Independence with America, and the Parliament

And now I have done with Authorities : For to add would be but to take away, from the Force of those already quoted ; and which concluding the Considerations meant to be given to the Quotation taken from the Commentaries of Sir William Blackstone, let us for a Moment turn our Eyes towards the Constitutional History of this Country, and see whether this Doctrine of “ the Omnipotency of Parliament ” has any Foundation therein ; and whether by these Means we shall not be able to trace out the Origin, as well as find the Reason and Occasion of it.

I believe there is no one, who has in any Degree attended to this History, but will readily grant the following *Postulata*, namely ; that the Constitution of England is of a *mixed*

may ratify or reject it : But for an Act of Parliament, in the first Instance, to absolve the Subjects of the Crown of their Allegiance, and dispossess it of its Territories, is, at least, a Doubt with me. Holland was declared independent, but it was by *Treaty* on a Truce for twelve Years ; and not by any *Renunciation* on the Part of Spain. And indeed I am the more confirmed in this Opinion, when I consider that the Proposition, made by the Americans themselves, was (as if aware of the Objection) in the Alternative ; “ Grant us,” say they, “ our Independency, or, withdraw your Troops ; ” and on this latter Alternative was Lord Chatham’s proposed Accommodation with America to take Place. It must be remembered too, “ that it is the immutable Principle of every State to conserve an eternal Right over all those Countries which have ever appertained to it by a legitimate Title, unless their Alienation has been made by just Means, and conformable to universal Laws ; ” that the Independency of America by Act of Parliament, being the Case of revolted Subjects, is not being “ made conformable to this Principle : ” that the Title of King of France which the King of England assumes, without the Possession of the Kingdom, is founded upon this *immutable Principle* ; and that for the same Reason, his Majesty must now place in his Crown, the *Feather* of King of America, in the Room of the inestimable *Jewel* itself, which, by the wicked Hands of his Ministers, has been torn from it.

Nature,

Nature, consisting, in *Matter*, of certain fundamental Laws or Rights *natural* and *reserved*; the *natural* unalienable by their very Nature, the *reserved* unalienable by the Compact that established them; and, in *Form*, of Monarchy, Aristocracy, and Democracy; or, in other Words, of King, Lords, and Commons: And that *Liberty* is hence the *Genius* and *pervading Principle* thereof, though not always perceivable in the Administration of its Government.* I say, I am to presume that these are Facts which none will deny; and therefore as they will follow me, without Argument, in the Course I mean to take, the Object of my present purpose is only to mark, in the concise Manner I can, the several Periods in which the Administration of this Government has been under Monarchical, Aristocratical, or Democratical Influence: till at length it has fallen under the joint united Tyranny of all, as the last unsuccessful Manœuvre to quench that heavenly Flame of Liberty, which lives, I trust in God, never to expire in this Constitution.

If we look back to the Times of the Saxons, whence we must date the Origin of our Constitution (for although there were many *British* Rights or Customs engrafted upon it, and

* Sir John Fortescue calls it "a political mixt Government" in Contradistinction to "a Regal Government." And Doctor Hurd says, "no consistent Account can be given of the English Government, but on the Supposition of a legal limited Constitution." See Fort. de Lau. Leg. Ang. c. 35. p. 127. and Hurd's Dial. v. ii. p. 126.

which

which do still remain, and although the Britons themselves were free; * yet the Form of the Constitution is certainly of Gothic Institution, and was brought by the Saxons over into England,) we shall find that the Constitution was, as I have stated it to be, of a *mixed* Nature; and its Principle that of Liberty. † We shall find that it consisted of a King, Thanes or Lords, and Commons under the different Descriptions of Frilingi, Custodes Pagani, Ceorles, Villains, &c. to whom separate Rights and Privileges belonged; and that it was of Course composed of a Monarchy, an Aristocracy, and a Democracy: But as the Lands of England were then *allodial*, and as Lands were the only Property, for Commerce was unknown; and as these Lands were almost

* Nat. Bacon says, "The Government of the People of this Nation in their Original, was Democratical, mixt with an Aristocracy, if any Credit be to be given to that little Light of History that is left unto us from those antient Times." See Hist. and Pol. Dis. part i. p. 138.

† It is curious to remark, (because perhaps not observed before,) that the Constitution and Form of Government established by our wise Forefathers in America, were precisely, in Principle, the Constitution and Form of Government of the Saxon Heptarchy. At the Heptarchy "the Kingdom was cantoned out into certain Provincial Establishments, not under one common Dispensation of Laws, though under the same sovereign Power." For so says Sir William Blackstone himself. See his Commentaries, vol. iv. p. 403. And just so was it, in Institution, with America. America "was cantoned out into certain Provincial Establishments, not under one common Dispensation of Laws, though under the same sovereign Power." And therefore whilst these Governments were strictly Constitutional, deriving their Source from the Origin of our own Government; the modern Attempts of Alteration in them have been as tyrannical in Design, as the Arguments of an *Imperium in Imperio*, or *Status in Status*, as made Use of and applied to them, have been false and futile both in Fact and Experience.

entirely

entirely in the Hands of the Lords, and the King was not, as he afterwards became, Lord of the Soil; the *Aristocracy* was uppermost and prevalent in the Administration of the Government. The Power of the King was merely military; * the executive Power was in the Lords, and the civil or legislative in the *commune Concilium Regni*, or in the Lords and Freemen of the Land. † And thus, under the Influence of the *Aristocracy*, did the Saxon Government continue; till the Invasion of William the Norman: When by the vast Accession of Property which fell to the Crown from the Slaughter that was made among the Lords at the Battle of Hastings, by the Investiture of his Norman Followers with the Lands of these Lords, under certain Services in Alteration of the before established Feudal System, (and which, by the bye, being grievous and burthensome not even these Followers could afterwards endure) and by the Accession of the Weight of his own Norman Dominions to this acquired Property; the Saxon *Aristocracy* was subdued, and the Standard of the Norman *Monarchy* erected in its Stead: Still however, without any Alteration in the Form, or with-

* The Title of King was originally among the Saxons that of *Dux* or *Leader*; that of *Rex*, a *regendo*, or King, being the Device of Priests afterwards to found their impious and selfish Doctrine upon of governing *de Jure divino*.

† What the Connexion was between the Lords and the lower Orders of People is known from Glanvil, who says, "*Mutua debet esse Domini et fidelitatis Connexio, ita quod quantum debet Domino ex Homagio, tantum illi debet Dominus ex Dominio, præter solam Reverentiam.*" Vid. L. ix. c. 4.

out

out destroying that Liberty which was the vital Principle of the Constitution.

Here then we see, the first Rise of Kingly Power in this Government; and the Occasion of it: But we shall find that it was not of long Duration: For as Power, not rightfully obtained, knows no Limits; so, in the very Act of its own Extension, it becomes limited. And therefore the *Monarchy*, which now, in full Career, had the Reigns of Government in its Hands, was, by Reason of those oppressive Whips and Spurs which it was wont to make Use of in its Course, stopped short in the Reign of King John, by the returning Power of the *Aristocracy*, aided and assisted by the *Democracy*, in bringing back the Constitution to its *Saxon* Principles; and by establishing it upon that Basis of *Magna Charta*, on which it has ever since stood; and from which, I must hope, it will never be removed.*

From this Time then to the Reign of Henry VII. is the third Period that occurs to our Observation. And here although the *Aristocracy* had reassumed its Power in the State, by getting rid, through the Means of *Magna Charta*,

* My Intention being merely to mark the Periods in which the Forms of the Constitution, or the separate Powers of King, Lords, and Commons had chiefly prevailed in the State; it will not be expected that any other historical Facts should be related, than what alone has Reference to this Occasion. And for the same Reason I shall omit to mention the Attempts of the Clergy, in this Period, to add a *fourth* Estate to the Constitution, by the Creation of themselves into Lords *spiritual* for *temporal* Purposes; looking upon this Occurrence as a political Madness, or Disease in the Constitution, which Time has since well-nigh rid the Government of.

of many of those hard feudal Services which William had introduced into the System of Government, to the almost Annihilation of the antient Privileges and original Rights of the People ; yet, by the bloody civil Wars that were carried on between the Houses of York and Lancaster, by the Necessity that the Barons had been under of alienating their Lands, as the Price of their Folly, in Support of the holy War ; by the Increase of Trade, which, from the Encouragement it met with in the Reign of Edward I, had produced another Species of Property in the Kingdom, and by other less considerable Circumstances ; the *Democracy* was daily growing in Strength and Power : The lesser Barons were separated from the greater, and became the Representatives of the landed Interest ; Boroughs were incorporated, and Burgeses were returned to Parliament as the Representatives of the Commercial Interest : * But still the Power of the *Aristocracy* remained till the Reign of Henry VII, when by the Policy of this Prince, and by the Prerogative now erected and vested by the *Democracy* in the Crown, as the Means of giving greater Liberty to the People (and not of taking that Liberty away as it was afterwards applied) the *Monarchy* again became, with increased Exertions of Influence, the directing Power of the State ; and continued so

* Those whom the Saxons called *Thanes*, were by the Normans afterwards stiled *Barons*, of which there were two Sorts, the *greater* and the *lesser*.

to be to the Reign of Charles I: which forms the fourth Period of our Inquiry. But yet so far were these Exertions, from quenching that heavenly Flame of Liberty which existed in the Constitution, that they only served to add Fuel to Fire; till at length the Flame burst out into a Rage of Dominion, on the Part of the *Democracy*, greater than any that had been ever known before. Happy Rage of Dominion! Happy in Spite of its Excesses! For whatever be the Means, *Salus Populi suprema Lex est*; and if this be the End, the Means are justified by the End.

And now the *Democracy* ruled, even without a Competitor; though not, as some have conceived, by the Overthrow of the Constitution: For Liberty was not to be extinguished, and although there was no Monarch, and notwithstanding the House of Lords was voted useless, the *Monarchy* remained, and the *Aristocracy* still subsisted. As well might it be said, that when Charles I. thought fit to rule twelve Years without *any Parliament*, that the *Aristocracy* and the *Democracy* were then destroyed; that Liberty was lost, and the Constitution annihilated: But the Fact was not so, in either Case. The Administration of the Government was, in both Cases, altered by Usurpation; in the one Case for twelve Years, in the other, continuing till the Restoration of Charles II, which now marks the fifth Period in the Sequel of our History: And when the
Constitution

Constitution, like a Spring that had been held, by Force in an unnatural Direction, returned, by its own elastic Power to its original Form; but in which it did not long remain : For the Monarchy was now again to be exalted, and indeed actually was so, to the very same Height that had but just before brought its Monarch's Head to the Block : But it was exalted, that its Depression might be the more certain and compleat ; for in the very next Reign James II. was deposed, and the Crown of England placed on the Head of William III : which finishes the sixth Period of my intended Investigation, and brings me to the Æra of the glorious Revolution. An Æra of which the Design was, as Lord Bolingbroke tells us, “ not
 “ only to save us from the Attempts on our
 “ Religion and Liberty, made by King James,
 “ but to save us from all other Attempts,
 “ which *had been made, or might be made* of the
 “ same Tendency ; to renew and strengthen
 “ our Constitution.” An Æra, when, as Sir William Blackstone says, “ the Prerogative of
 “ the King was limited by Bounds so certain
 “ and notorious, that it is impossible he should
 “ exceed them without the Consent of the
 “ People :” *When*, the Power of the Lords became that of their being *pro Tempore* the actual Representatives of the Nation at large,* of

* Upon the Abdication of James II. there being no House of Commons in Existence, the Lords became the actual Representatives of the People ; and took upon themselves the Administration of the Government, till the Meeting of the Convention, and the Appointment of the Prince of Orange to succeed them in Power.

being in future the Mediators between the King and the People, and of rendering Justice to both, by opposing as well the Encroachments of the Crown upon the Liberties of the Subject, as the Encroachments of the Subject upon the just Prerogative of the Crown:* *When*, the Rights of the People were asserted, maintained, acknowledged, and defined: And in short, *when*, each Form of the Constitution was so attempered with the other, as to make Liberty, which had hitherto been, though in vain, the Object of their separate Attempts to destroy, the now Object of their united Endeavours to preserve: Of all which Particulars collectively taken, the good Effects have come so personally home to every Individual, as well as to the Community in all its great Extent, that it is unnecessary for me even to allude to them. All I will say is, that from this happy Æra, Great-Britain began to rise in Empire, in Wealth, in Power, in Credit, in Greatness of every Description, in Commerce, the Source of all the rest, and the Guardian of Liberty; and that it continued so to do, far above all other States that the Annals of either *antient*, *middle*, or *modern* History can boast, to the Æra of the Reign

* "There cannot be a greater Solecism in Politics, than that of a Nobility, under monarchical Government, who suffer the Liberty of the Commons to be taken away. In Aristocracies, the Nobility get whatever the Commons lose, but in Monarchies, the Crown alone is Gainer; and the *certain* Consequence of their helping to enslave the Commons must be that of being enslaved themselves at last." See Diss. on Part. p. 228.

of George III. which closing the last Period of my historical Journey, whilst it opens a new System of Politics to our View, and, in consequence, our sad Reverse of State, I shall beg Leave to look back for a Moment upon the Ground over which I have just trodden, as leading to that, upon which I am now about to stand.

In the historic Course I have taken, my Design has been to shew, as I proposed to do, the several Periods of our History, in which the different Forms of the Constitution have had the upper Hand, or influencing Power, in the State. I have shewn that, from the Time of the Saxons to the Norman Invasion, the *Aristocracy* was the prevailing Power; that, from the Norman Invasion to the Reign of King John, the *Monarchy* took the Lead, and arbitrarily prevailed in the Government; that, from the Reign of King John to that of Henry VII, the *Aristocracy* again assumed its Power; that, from the Reign of Henry VII, to that of Charles I, the *Monarchy*, assisted by the *Democracy*, recovered its Influence, and again arbitrarily exerted it; that, from the Reign of Charles I, to the Restoration of Charles II, the *Democracy* became alone the ruling Power in the State; that, from the Reign of Charles II, to the Accession of William III, the *Monarchy* recovered its Power, and renewed its arbitrary Measures; and that, from the Revolution to the Æra of George III, the Administration of the Government rested on the settled “*limited*

"Policy" of the Constitution, whilst Liberty being "*the informing Principle*," (as Doctor "Hurd calls it) Glory and Grandeur followed.*

I say then that this being my Design, the Inference to be drawn therefrom is this; that if the *separate* Exertions of the *different* Forms of the Constitution were, as, in the *several* Periods mentioned, they are stated to have been; the *Combination* of these Forms, upon the Principles laid down by Sir William Blackstone and others (of "the Omnipotence of "Parliament," of an *arbitrary* and *despotic* Power in King, Lords, and Commons to act by the mere Direction of their own Will, subject to no Limitations from the fundamental Laws

* "The History of *Sparta*," says one, "contains very little else, than the Struggles of *one Part* of the Constitution against the *other*; for sometimes the *Kings* laid very deep Designs for introducing arbitrary Power; sometimes the *Nobility* practised against their Kings, and either brought them to violent Ends, or forced them into Banishment; and, at last, the *Ephori*, under Colour of promoting Liberty weakened the Foundations of the State to such a Degree, that it sunk into Anarchy, and never recovered its former Lustre. The Romans, who copied that Constitution in theirs, met with the same Fate." It does not appear in either History, that there ever was an Union of *all the Forms* of the Constitution to obtain that arbitrary Power, for which *each* had separately contended. This Machiavelian Experiment was reserved for the Annals of the English History in the 18th Century. But it appears from the History of Rome "that these Struggles made Way for the perpetual *Dictatorship*, and that at last all Parties agreed to repose the Power of the Commonwealth in a single Person, when the Constitution was too weak to sustain it according to the Antient Forms." Sad Exchange! and yet however sad, the vesting of the Powers of a *Dictator* in the Crown has been the Language of late in a British House of Commons, to the British Nation; and which makes one of two *ministerial* Objects in View: Either that the People of England shall submit to "the Omnipotency of Parliament," or, that they shall be so burdened, galled, and oppressed by their Parliaments, as to induce them to do what Rome did, and what Sweden and Denmark have since done, "repose the Power of the Commonwealth in a *single Person*." May their Views to come, like their *past Measures* be crowned with the same Success!

of the Constitution, but *unlimited* “to alter
 “and create afresh even the Constitution it-
 “self”) must derive its Origin from the Date
 of these Principles; and as the Date of these
 Principles is derived from the *Æra* of the present
 Reign,* so the Conclusion, upon the whole, is
 this; that, to that *arbitrary Power*, against the
 Introduction of which, *separately*, we have been
 contending from the Saxon *Æra* to the *Æra* of
 George III, *conjunctively*, we must now submit;
 though attended, in this Form, by a State of
 Slavery, tenfold more oppressive, than any
 other Form could possibly inflict. †

So far then have I endeavoured to trace the
 Origin of this Doctrine. And now the next
 Subject of Consideration is the Reason and Oc-
 casion of it. It has been observed by my Lord
 Bolingbroke, “that absolute Power was the
 “Object of Kings from the Norman Conquest
 “to the Revolution;” and so it certainly was:
 For although the Aristocracy and the Demo-

* It is said, that the Subjugation of America, upon the Idea of an
 Arbitrary Power in Parliament, was planned in the Cabinet of the
 Princess Dowager of Wales; before the Death of George II: but
 whether this be true or not, is not for me to determine. One Thing
 however is true; the Plan of the Subjugation of America commenced,
 with the Power of the Earl of Bute, in the Reign of George III.

† The Duke of Buckingham in his most excellent Comedy of
 the Rehearsal, has a Part therein so very *à propos* to the present
 Purpose, that however ridiculous it may appear, the Comparison
 is worthy of Mention. The Duke makes Bayes to introduce upon
 the Stage the *Sun*, the *Moon*, and the *Earth*, who all *separately*
 perform their several Parts; but Bayes not content with this, makes
 the *Sun*, *Moon*, and *Earth*, to dance the Hay all together. “Now
 “the *Sun*, now the *Moon*, now the *Earth*, now all together, says
 “Bayes, *Sun*, *Moon*, and *Earth* dance the Hay.” And just so
 hath it been in our Farce of State. Now the *Monarchy*, now the
Aristocracy, now the *Democracy*, now altogether, says Lord North,
King, *Lords*, and *Commons* dance the Hay; to the Tune of “Charley
 “over the Water.”

cracy had, at different Times, assumed the Administration of the Government, yet whenever this happened, it always proceeded from the more arbitrary Designs of the Monarchy. And therefore the Limitation of the Monarchy, at the Revolution, became the *only* Object of Contemplation and Settlement. The other Powers of the State were so circumstanced, as to occasion no Apprehensions, individually from them, of any further Attempts towards arbitrary Power; and as to the Doctrine, of an arbitrary Power being vested in the *Legislature* to take away the Rights of the People, no such Idea was entertained or existed: But on the contrary, Parliaments were looked upon as the Protectors of the Liberties of the People, and were adored by the *Whigs* as the great Bulwarks of the Constitution; though, for the same Reason, hated by the *Tories*. * Thus then was the Monarchy the only Power, which it was necessary at this Time to guard against; and this being effectually done, as has been shewn, the Constitution and Government were not

* It may be asked then, what is the Meaning that *Tories* are now the Friends of Parliament, and *Whigs* the Opposers of them? The Reason is plain. The *inverse* use of Parliaments hath made them so: when Parliaments were *limited* to the Use of the Constitution, they belonged to the *Whigs*; when *unlimited*, to the Abuse of it, they became the Property of the *Tories*: for *Tories* follow arbitrary Power, as *Crows* do *Carrion*, wherever it is to be met with; and are driven in search of it, by the same *blind impulse*, that drives a *Newfoundland Dog* into the Water, after a Stone that he cannot reach. It follows therefore that by *Whig* and *Tory* is meant this: A *Whig* is the Friend of Liberty, and the Enemy of arbitrary Power. A *Tory* is the Friend of arbitrary Power, and the Enemy of Liberty. And such is the Definition, and specific Difference, of these Parties at this Day; though, from the *Whigs* not perceiving in Time, the Politics of the *Tories* respecting Parliaments, and from their well-grounded Attachment to the Constitution of Parliaments, many of the best, and most respectable Characters, of this Party, became, by
only

only then considered as ascertained, and settled; but actually continued so to be, as I have said before, to the Æra of the present Reign; though not without the Introduction of a Principle, as must be admitted, which, however necessary the Circumstances of the Times might have rendered it, and although adopted at first without any View to arbitrary Power, as will appear hereafter, yet, has since proved the fruitful Means of our present public Evils: For this Principle, being that of Corruption, became at length to be an acknowledged Principle in the Government; upon which a System was to be erected, and by which the Administration of the Government was to be conducted. But as even this *arch Seducer*, this *wicked Serpent*, was found insufficient of itself to violate the *Chastity of Liberty*; and now every other Experiment having failed, one other Trial was left: *Force* must be used, a *Rape* was to be committed, and that *Wolf in Sheep's Cloathing*, that *cloven footed Beast*, the Offspring of Corruption, called "*the Omnipotence of Parliament*," was generated, and became the Heir apparent to the fortified Estate, and lost Patrimony of Prerogative. *

the Policy of the Court, hampered by that damnable Heresy of State, the now *Tory* Doctrine of "the Omnipotence of Parliament."

* It may here be asked too, how can "the Omnipotence of Parliament" increase the Power of the Crown? The Answer is, in Fact, by the Means of Corruption: but, by logical Proof, it stand thus:

P R O O F.

One of the Emperors of Rome having said that his little Boy of five Years old governed Rome, and being asked, how that could be, he proved it in this Way:

I govern Rome, said he;

My Wife governs me;

But now I shall be told, that, notwithstanding what has been alleged, this Doctrine is, in Principle, the Doctrine of all Governments; that it is so of our Government; that it is cloathed in the Forms of the Constitution; and that it has many Acts of Parliament for its Support. To which I reply; that to say that this Doctrine is, in Principle, the Doctrine of all *absolute* Governments, is to say, what is absolutely true: for it is of such Governments the very Principle itself. But to say that this Doctrine is, in Principle, the Doctrine of a *limited* Government, of a *free* Government, and so in Consequence of our Government; I think, I may presume to assert, that, so far as Argument founded on Fact will go, the contrary has been already proved. And now I do not feel myself at all averse from the Examination of this Doctrine, upon the abstract Ground of the Principles of Government in general; or of our Constitution in particular. But, in good Truth, until the Problem be solved, how in the Nature of Things, and in Common Sense, an *arbitrary* Power, under any possible Mode, can be said to exist in a *free* Government; all Process of Ratiocination is mere *Verba, et præ-terea nihil*; and the *Dilemma* of the Problem itself must stand in the Stead of Reasoning.

My little Boy governs my Wife;

Ergo, my little Boy governs Rome.

APPLICATION.

The Parliament governs the Kingdom;

The Treasury governs the Parliament;

The Crown governs the Treasury;

Ergo; the Crown governs the Kingdom.

INFERENCE.

That the Law is the Will of the Prince, declared in Parliament.

However,

However, as it would seem that the Theory of this Doctrine has its Dependence principally on the Authority of Sir William Blackstone, I shall hope for his Pardon, if for the Sake of Truth, (and I am sure, from the personal Obligation as well as real Esteem I sincerely have both to and for Sir William, it can proceed from no other Motive) I should suggest, and shall endeavour, by a few cursory Observations, to support the Suggestion, that the Error of this Doctrine seems to have arisen, in Inference, from an Error in the Manner in which he has, in his Commentaries on the Laws of England, laid down and treated the Principles of our Constitution.

These Commentaries, in their Dedication to the Queen, announce themselves to be, “ A “ View of the Laws and Constitution of Eng- “ land;” and, of the *Laws*, they are truly so, in every Sense. They have for their Recommendation, Arrangement and System, the most natural and beautiful Diction, with the most comprehensive and best chosen Collection of Materials: so that as a *juridical* History, they may be considered as correct and perfect. But as a *Constitutional* History, the View is somewhat different. Here they are imperfect, and, as I have just suggested, erroneous. Of the *Law* itself, whilst the most accurate Definition is given, and the most elaborate Reasonings had upon all its Parts, not a Word, of this Kind, is said of the *Constitution*. No Definition, not even a summary Explanation of it; nay, although the Term *Constitution* is to be read almost in every Page, *great* as the Word is, it

has not a Place assigned, nor is it to be found, in the *Index*. So far then are the Commentaries imperfect, and in what follows, I think, they are erroneous.

The Principles of the Constitution are so embodied, and confounded with those of the Law, that the *Rights of the People* are made not to arise out of the *Constitution*, but to depend on the *Law*. "The Laws assert our common Rights," says Lord Bolingbroke, "but they do not give them to us."* Between *civil* and *political* Law, no Distinction whatever is made; when lo! upon this Distinction depends the very Difference between the Law, and the Constitution. *Political* and *civil* Laws, says Baron Montesquieu, "Should be relative to the Nature and Principle of the actual, or intended Government; whether they *form* it, as in the Case of *political* Laws, or whether they *support* it, as may be said of *civil* Institutions." Again: "Considered as Members of a Society that must be properly supported, they have Laws relative to the *Governours* and the *Governed*; and this we call *politic Law*. They have also *another Sort* of Laws relating to the mutual Communication of Citizens; by which is understood the *civil Law*." Baron Montesquieu next makes an Apology, for not having separated the *political* from the *civil* Laws: "For," says he, "I do not pretend to treat of Laws, but of their Spirit;" which, *è converso*, is the very Reason that this Distinction should have been made in the Commentaries on the Laws of England. † Another great Authority,

* See Diff. on Part. p. 89. † See Spir. of Laws, v. i. ch. 3.

in Support of my Opinion, is that of Baron Bielfeld. This Author says, " Considered as
 " living in a Society that must be maintained,
 " there must be Laws in the Relation there is
 " between the *Government* and those that are
 " governed; and these make the *political* or
 " *public* Law: There are still *others* in the Re-
 " lation that all the Citizens have among them-
 " selves, and these make the *civil* Law." He
 says too, in another Place, " In the most *ex-*
 " *tensive* Sense the *public* or *political* Law com-
 " prehends the *reciprocal* Duties between the
 " *Governors* and the *governed*; that is, from
 " Sovereigns towards their Subjects, and from
 " Subjects towards their Sovereigns, and towards
 " the State of which they are Members. Each
 " State, each Nation, has therefore its public
 " Law; the Study of which becomes the more
 " extensive, and the more difficult in Propor-
 " tion as the Form of Government is more
 " complicate. The *public* Law, or *Constitution*
 " of *England*, for Example, which determines
 " the Rights and Prerogatives of the King, the
 " Parliament, and the People, forms a very
 " extensive Science." *

Now from the Want of this Distinction be-
 tween the *political* and the *civil* Law, or rather
 from the total Silence of the Commentaries
 upon the Subject of the former, those pre-

* See Elements of Erudition, vol. 1. p. 89, and 103. This Science, in order to its Attainment, is very judiciously treated of in the third Volume of these Elements, under the Head of *Statistics*; and to which the Reader is not only referred in particular, but the *Elements* themselves in general, as well as the *Political Institutes* of Baron Bielfeld, are worthy the Perusal of every Lover of Learning and Science.

determined,

determined, or *precedent** Relations, that exist between the *Governors* and *governed* of this Kingdom, are made to be the Offspring of the *civil* or *municipal* Law; to be the mere Effects of Legislation, and the Acts of the Legislature itself only: So that, from such Premises, the Conclusion, of an *arbitrary* Right in the Legislature, is just and natural; and “the Omnipotence of Parliament” follows as of direct and certain Consequence: For that Power that gave, must have a Power to *take away*; and if the Legislature *created* the Constitution, the Legislature must of Course have a Right “to *change and create it afresh*.” But how erroneous this Doctrine is, a bare Attention to the Nature of the *political* Law alone, without any other Aid, sufficiently proves.

The Commentaries say, “Now the Rights “that are *commanded* to be observed by the “*municipal* Law are of two Sorts;” and then they proceed to convert *Rights* into *Duties*, in order to bring them under the *Command* of the *municipal* Law;† and which otherwise could not be done from the very Definition of this Law: for the Definition is, *Lex est Sanctio sancta, jubens honesta, et prohibens contraria*; which can, by no Means, apply to the *Rights* of the People, though it may to their *Duties*. As for Example: The Trial by Jury is a *Right* of the People: But how is this Right of the

* Sir Francis Bacon says, “that *Monarchies* do not subsist, like “other Governments, by a *precedent* Law; and that Submission to “them is grounded upon Nature;” which proves, according to him, that other Governments do subsist by a *precedent* Law, and that Submission to them is *not* grounded upon Nature. See *Case of the Post-nati*. vol. 4. pag. 185.

† See Blackstone’s Comm. v. 1. p. 123.

People to be subjected to this *municipal* Law according to its Definition? It cannot be. Trial by Jury is an *absolute reserved* Right, and not a *relative* or *social* Duty. It is *neque honestum, neque contrarium*. Besides, there is no Connexion between this Species of *Law*, and this Species of *Right*. This Species of *Law*, that is the *municipal* or *civil* Law, has to do with *private Rights*. This Species of *Right* is subordinate to that Species of *Law*, which has to do with *public Rights*; namely, the *political* Law. And herein consists both the Error of the Commentaries, and its Solution. The Error is, in making *political* and *civil* Rights *synonymous*, and without Distinction.* The Solution is, that *political* Law has to do with *public Rights*, *civil* Law with *private Rights*: That *private Rights* are the Objects of Legislation: That *public Rights* are the Basis and Foundation of *private Rights*, the fundamental, unalienable, and unalterable Laws of the Land, originating in Compact; and, whilst the Constitution lasts, holding by the same Tenure: That they are the Grounds of the Constitution, and the Occasion of its Form of Government; the Creators of Legislators, Legislatures, and of Legislation; and these being of Course the Creatures of these Creators, the Creatures may not have a Right of Omnipotency over their Creators: But on the contrary, "the Omnipotency of Parliament," *quoad* these *public Rights*, must become "the *Subserviency* of Parliament,"

* *Political*, or *civil* Liberty, say the Commentaries, is no other "than natural Liberty so far restrained, &c.;" so that *political* Liberty is *civil* Liberty, and *civil* Liberty *political* Liberty, with out Distinction or Difference.

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which is the very Reverse of what the Commentaries intended to prove ; and, in being so, shews, as if the Constitution had been made for the Commentaries, and not the Commentaries for the Constitution : As if they had been written *pro Re nata* : Or as if they had been submitted to the Pruning-Knife of the Lord Chief Justice of the Court of King's Bench, that they might bear the Fruits of his Politics, and bring forth the Evils that have arisen from them.

I would now seek to excuse myself, for having presumed to trespass on that Ground, to which the Vinerean Professor of Law might be said to have an *exclusive* Right : But as my Views were to save, and not to destroy, so his Justice, I am content to think, will be to pardon, and not to condemn.

Another Argument that has been alluded to is that, of this Doctrine being cloathed in the Forms of the Constitution ; but the Argument itself is the very Objection to the Doctrine : for of all Tyranny, that Tyranny is the worst, which has the *Formalities* of Law for its Support. Every other Tyranny is the Effect of misguided and ungoverned Passions : this is the Result of Deliberation, and even Reason is prostituted to its Purposes. The former may find Motives for its Excuse : the latter is out of the Reach of Absolution. Lawless Tyranny is confessedly lawless. Legal Tyranny adds Treachery to Tyranny : for it acts in Disguise, and deceives with the Appearance of Truth. But this Argument applies to the superior Baseness of this Tyranny only. The Absurdity of it is almost

almost too preposterous to mention. Tyranny cloathed in the Forms of the Constitution! How irreconcilable the Terms with the Ideas! And how little able to stand the Test of Examination! Every Body knows how, and in what Manner, one Part of the Constitution receives its Form; I mean the House of Commons: that it has no original Jurisdiction or Power of its own: that it is elective, and for a stated Term only: * that its Members are the Deputies of the People, appointed to do their Business in Parliament; and for so doing, received, no farther back than the Reign of Henry VIII. the *Wages* of their Constituents. And yet no sooner are forty of these Members (for forty constitute a House) assembled in the holy Chapel of St. Stephen, than a *Right* originates in them, in Conjunction with the King and the Lords, to make Hewers of Wood and Drawers of Water of those very *Electors*, of whom they are themselves the *Elected* only.† Such is the Absur-

* The Election of an House of Commons was formerly for one Year, afterwards for three Years, since for seven. What is next to be the Case, rests on "the Omnipotence of Parliament."

† In Proof of the former subordinate State of Parliament to the People, and so of course, in Contradiction to its *present* assumed State of Omnipotency, Judge Hales says; "It is the Law and Custom of Parliament, that where any new Device is moved on the King's Behalf in Parliament for his Aid, or the like, the Commons may answer, that this is a *new Device*, and they *dare* not agree without Conference with their Countries; whereby it appeareth such Conference is warrantable by the Law and Custom of Parliament;" and for his Authority, cites Rot. Parl. 13 Ed. III. N. 58, to which I have referred: But this Doctrine not tallying with these Times, this Citation is not *now* to be found in the modern Editions of our Rolls. If, when the Taxation of America without Representation was proposed, the Commons had said "this is a *new Device*, and we *dare* not agree without Conference with our Countries," America had still been Part of the British Empire, and Great Britain not the degraded Kingdom it now is.

See Hales of Parlm. p. 13.

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dity of this Doctrine, and yet such the Doctrine is. Had it been said, that the Legislature might assume such a *Power* to itself, but that it could not possibly have a *Right* to such a Power; that it might exert and maintain such a *Power* by Force, but that such a Power was *Usurpation* and *Tyranny*; such a Doctrine as this would have been intelligible, and it would not have been denied: but, on the contrary, it would have been admitted; as, upon this Principle, I mean very readily to admit (as a Matter of Fact) the last Argument made use of, that this Doctrine has many Acts of Parliament for its Support; and to this End will take the Liberty of citing some of these Acts myself.

The first is the Statute of the 21st of R. II. c. 16, whereby the whole legislative Power of the Parliament was delegated and lodged in this King, with twelve Lords and six Commoners, or any six of the Lords, and any three of the Commoners.

A second is the Statute of the 11 of Hen. VII. c. 3. whereby Authority was given by the Justices of the Peace (without any Trial by a Jury) by their Directions to hear, and determine all Offences against any penal Statute then in Force.*

* Upon this Act Dr. Hurd has the following Remarks: "The Oppressions," says he, "of Empson and Dudley, had been founded in a Stretch of Power, usurped and justified on the Principles of the Civil Law, by which these Miscreants had been enabled to violate a fundamental part of our Constitution, the Way of Trial by Juries. The Effect on the People was dreadful. Accordingly, in the Entrance of the next Reign, though the Authority, by which they had acted, had even been Parliamentary, these Creatures of Tyranny were indicted for High Treason, were condemned and executed, for having been instrumental in subverting *Legem Terra*; and the extorted Statute, under which

A third

A third is the Statute of the 31st Hen. VIII. c. 8. which delegated to the King Power to make Laws by his Proclamations, with the Advice of his Council, of equal Authority, and Force, with Acts of Parliament. *

There are, besides, some other Statutes, particularly in the Reign of R. II. to the same Effect; but as they are less exceptionable, it is unnecessary to mention them. These may be said to be Cases in Point, and as such I produce them. But will Sir William Blackstone, or any other Advocate for "the Omnipotence of Parliament," say; that these Statutes were made upon an *actual acknowledged Right* subsisting in the Legislature, of making and enacting such Laws? Or rather will they not say, what was then said, and what has ever since been said, on every Hand; that "these Statutes were *notorious Breaches and Violations* of the *original Constitution*: that the fundamental *Rights and Powers* of the two Estates of the Lords and Commons were given up and deserted: that the Wildness of them was apparent: that the Fate of their Makers was precipitate and fearful: and that may it always be so, with such *Infringers* and such *Infractions*." And will any one say that this was not the Light in which these Laws were and are considered, nor the Manner in which, *ex debito justitiæ*, they ought to be looked upon "they had hoped to shelter themselves, was, with a *just Indignation* repealed." See Mor. and Polit. Dial. vol. 2. pag. 211.

* Of this Statute, Doctor Hurd says; "This terrible Act is 31 Hen. VIII. ch. 8. It was repealed in 1 Edw. VI. ch. 12. See Mor. and Pol. Dial. v. ii, p. 267." What will the Doctor say of the Popish Canada Act? Hereafter I trust we shall know.

and

and treated? Sir William Blackstone, I am sure, will not say this. And then, all Controversy is at an End between him and me; and he and I are agreed. But yet again, if he does not say this; what becomes of his "Omnipotence of Parliament?" For if the Parliament be of *Right* omnipotent, the *Power* exerted by these Laws is indisputable; and the Objections made to them are treasonable, and deserving the highest Punishment.

But now two important *Questions* arising, to which *Answers*, as important, may be expected; I will state the former, and will endeavour to give the latter. The one Question is; What *present* Mischief hath this Doctrine done? The other, Where is its *future* Danger?

To the first Question, I answer; it hath "divided a House against itself," *it has severed America from Great-Britain.* This is the Mischief it has done. These are the *Primitiæ* of "the Omnipotence of Parliament," of that Doctrine, which from *Heaven* took its Name; but from *Hell* received its Principles: A Doctrine, which "in the Hour of Insolence" dared to say; "I will tax America without Representation; I will take the Money out of the Pockets of three Millions of People without their Consent, and *of Right will bind them in all Cases whatsoever*; I will reduce them to unconditional Submission, and I will bring them at the Feet of Parliament." Blasphemous Tyranny! Fatal Mischief! But this is not all.

It has produced a Congress (from the fifteen
Synods

Synods into which Scotland * is ecclesiastically divided) at Edinburgh, debating upon the Subject of Religion, "raising," to use the Words of Mr. Burke, "the same Question on the "*Competence of Legislature* to make any Alteration in that System," † and defying that Omnipotence of Parliament, which had but just before said, in the high toned Language of Milton, to America;

—— "Fool, not to think how vain
"Against th' Omnipotent to rise in Arms!"

Paradise Lost, book vi. ver. 135, 136.

but which, to Scotland, was as ready to cry out, with the same Author;

"Son! thou in whom my Glory I behold

"In full Resplendence, Heir of all my Might,

"Nearly it now concerns us *to be sure*

"Of our Omnipotence!" *Par. Lost*, b. v. ver. 719, &c.

This too hath this Doctrine done. "And
"yet more fatal Tidings still await our Ears."

It hath raised a gallant Army of forty-two thousand Men in Ireland, who, wisely foreseeing that "the Omnipotency of Parliament," from its very Definition, could not be confined to America, were prepared even with *Omnipo-*

* The mention of Scotland reminds me to say, that Sir William Blackstone having produced the Act of Union as a Proof of "the Omnipotency of Parliament," "the Omnipotency of Parliament" might be proved by a Repeal of the *fundamental* Articles of the Union. But this was not the Sense of the Reign in which the Act of Union passed. For upon the Question in the House of Lords, whether the Peers of Scotland should sit by *Election* or by *Descent*, the Debate turned entirely upon this Distinction; "which of the Articles of the Union were *fundamental*, and not *alterable*;" and which were otherwise. See *Tind. Cont. of Rap.* vol. 2. p. 238.

† See Mr. Burke's Answer, to the Letter of Mr. Pat. Bowie, one of the Members of this Congress, in the *Edinburgh Magazine* for March, 1779.

tency to contend. But Tyranny is ever cowardly. And now our "*Palinurus nodding at the Helm*," to avoid *Scylla*, runs upon *Charybdis*;* and gives the *thousandth* Mark, and *damning* Proof of himself, that;

"Dum vitant Stulti Vitia in contraria currunt."

Hor. Sat. lib. i. v. 123.

This is the Mischief of this Doctrine, and this, with much more, it hath already done. I forbear to mention the Fears, the Apprehensions, the Distrusts, the Heart-burnings, the Dangers, the Losses, the Difficulties, and Distresses it hath brought down upon, and occasioned to, his Majesty's useful, faithful, and loyal Subjects in the West-Indies. I omit to take Notice of the Broils, the Heats, and the civil Dissentions it hath sown in this Country. For this were but to heap *Pelion* upon *Ossa*, whilst enough remains to crush the *infernal Ministers* of this Doctrine to Atoms, though their

* What is here said must be received, as not intending to express the least Disapprobation of those Advantages, which Ireland has received from this Country: On the contrary, there being still other Benefits to which Ireland is justly entitled, and without which those already granted will be rendered not so beneficial, I sincerely hope she may obtain them. But what is here said is meant to shew, how *daftardly* and *unprincipled* that Minister must be, who, because the Danger is at a Distance, spends forty Millions of English Treasure, and spills the Blood of thirty Thousand of his Majesty's Subjects, to obtain *that* in America, *which*, because the Danger is near, he yields up, and, with his own Hands, makes a Proffer of to Ireland. And can a stronger Picture of *Injustice*, flowing from that Source whence *Justice* should issue, be painted, than this Representation affords! But let it be a Lesson of Caution to the good People of Ireland, how they trust this *Weathercock* of a Minister: For Ireland *disarmed*, Courage returns; and with it "the Omnipotence of Parliament" returning, the Advice of Alexander Sforza, the Italian, to his Ally Lewis 11th of France, was, "Agree with your Enemies upon any Conditions, and then find the Opportunity to cut their Throats;" and so the *AAs* of To-day may be *repealed* To-morrow.

Shoulders,

Shoulders, like those of Atlas, were made to support the Burden of the *Earth*.

And therefore I proceed to the second Question proposed, Where is its *future* Danger? And this too I will answer. The Danger is, that with this Doctrine so held to be the Doctrine of the Constitution, a *corrupted Majority of Parliament* may constitutionally make the King of a *limited* Monarchy, a *legal* Despot. † We are told, that “ what Parliament doth, no “ Authority upon Earth can undo.” This then being done, where is the Remedy? Sir William Blackstone tells us, “ the Remedy is “ to be sought, when the Evil comes. To “ prevent it would be an Act of Indecency to- “ wards Government.” “ For the Supposition “ of Law is, that neither the King, nor either “ House of Parliament (collectively taken) is “ capable of doing wrong.” * And if ever the Evil unfortunately arrives, “ the Prudence of “ the Times must provide new Remedies upon

† If our Princes, on Conviction, that it was not only a vain, but a desperate Undertaking, to wrestle with Parliaments, should find it expedient to compromise the Affair with them, and agree to *divide* the Commonwealth *between them*, would not Parliaments themselves become a Grievance? Would not our Representatives become our Masters? Would not their Constituents become their Slaves? Thus, if the governing *without* a Parliament was justly the Object of our Terror; if the governing *with* a Parliament was, *as justly*, the Object of our Wishes; the governing *by* a Parliament would be an infallible Method, not only to compass, but give a Sanction to our Ruin. With Regard to the first of these Governments, our Terrors have long slumbered: For while we *so freely give*, why should the Sovereign take? And with Regard to the last — *Hinc illæ Lacrymæ!* See Use and Abuse of Parliaments, v. 2. p. 714.

* I had imagined, and from Sir William Blackstone too, that this Attribute of Perfection belonged only to the *Person* of the King. But now I begin to feel a little Ray of Divinity about myself, and to think that, as a *Member of the Legislature*, I am as incapable of *doing wrong*, as the King. See Black. Comm. vol. i. p. 244.

"new Emergencies." And so I think myself: For the Evil is arrived, and therefore the Prudence of the Times must find *a new Remedy* upon *a new Emergency*. And which shews too, what I undertook to prove, that "the Omnipotency of Parliament," as a *constitutional Doctrine*, is "a new Emergency," originating in the Reign of George III. and requiring "a new Remedy." But what if no Remedy can be found? Why then, we shall be told that "what we cannot *cure* we must *endure*," and that we must take to ourselves, what has been called, "*the Comfort of the Inquisition*:" *We must bear the Evil with Patience.* †

But why seek a Remedy at all? For where is the Evil? Admit the Doctrine, and the Evil is none. It is the Doctrine of the Constitution. And how can the People complain of that Doctrine, which the People themselves thought fit, in their Constitution, to ordain?

But did I say that this Doctrine, *so held* to be the Doctrine of the Constitution, *may* make the King a *legal* Despot? I *will* say that it *has already* made the King a *legal* Despot, greater than any Despot in all Europe; I was about to say *greater* than in all the World: But as great as any in the World, I do assert and will maintain.

When the War with America was lighted up by this Country in that, the Pretence of it was to force Submission to the Parliamentary Rights of England. It was therefore *a War of*

† An innocent Italian being once condemned to the Inquisition, he said to his Father Confessor; "*Padre mio, che s'ha da fare?*" Father, what must I do? To which the Father answered; "*Figlio mio, bisogna aver Pazienza.*" Son, you must bear it *patiently*. And whence, this fatherly Advice is called, the *inquisitorial Comfort*, or *the Comfort of the Inquisition*.

Parliament, the Cause of it being a Parliamentary Cause. But what Proof did Parliament give of its being so? Or rather what Proof did Parliament not give to shew that this was nothing but a mere Pretence? I will tell you in a Word. They passed the Quebec-Act: Of which before I speak, I trust, "the Omnipotency itself of Parliament" will allow, that if there be any one Thing which Parliament cannot do, it is that of *divesting* itself of its own *legislative* Authority. And yet this very Quebec-Act, not only surrenders up the *legislative* Authority of Parliament, in and over all Canada, marked out, for this special Purpose, in Extent determinable only by the Lines and Circles of Astronomical Geography, into the Hands of the King; but places the *executive* and *judiciary* Powers there also. And if there be any Degree of *Despotism* greater and higher than that, where the *legislative*, the *executive*, and the *judiciary* Powers meet and unite in one and the same Person; I have failed in what I so boldly took upon myself to assert and maintain.

Where then is the Difference between this Act and those of the 21st of R. II. c. 16, and the 31st of Hen. VIII. ch. 8. (which last Doctor Hurd calls "*a terrible Act*") except in the paramount Nefariousness of the *former* over the *latter*. They all give up the *legislative* Authority of Parliament to the Crown: But the Act of R. II. has the Modesty, in so doing, to join some of the Lords, and some of the Commons, with the King; and the Act of Hen. VIII. superadds, "with the Advice of the Council:"

whereas the Quebec-Act, besides the *judiciary* Power, the *executive* being of Right in the Crown, vests an *exclusive* Right to the *legislative* Power there in the King alone; and is called a *constitutional Act*: whilst the others, when passed, and for ever after, till repealed, were held *notorious Violations* of the Constitution, and Acts of Tyranny. But this is not the only Act in which this Madness of Power has been exerted. There is not one of those many coercive Acts that have passed in the Administration of the present Minister respecting America, in which you do not find the very Roots, not only of our Constitution, but of every Government, *even of Humanity itself*, * torn from their native Embraces, and burnt up by the Blast of his unnatural Power. Not an Act out of which Articles of Impeachment, upon Articles of Impeachment, do not arise; † and for which if he does not suffer in this World (for his avowed Ostensibility will not protect him) Justice is but fled to the next, that his Punishment may be eternal hereafter. ‡

* See the Fishery-Bill, or *Starvation-Act* as it is called, *κατ' ἑξοχήν*, where the *Innocent* are involved with the *Guilty*, and "the Sins of the Father visited upon the Children unto the third and fourth Generations."

† Let it be remembered, that one of the Articles of Impeachment against the Earl of Clarendon was; "That he introduced an *arbitrary Government* in his Majesty's foreign Plantations."

See Clarendon's Tracts, p. 25.

‡ It may be enquired how, under such Circumstances, has this Minister been able to find Support? To which the Answer is; by the following Means. In the first Place, by a Waste and Dissipation of the Public Money, exceeding the Bounds of all *Credit*; in every Sense of the Word. In the next, by the Adoption, and most ready Use, of a *favourite Maxim* in the Politics of Machiavel, namely, "to conceal every Appearance of *Cunning*, and to deceive under the Guise of *Candour* and *good Faith*." But lastly, and principally, by becoming the adopted *God-father* of the old *Cocoa-Tree-Club*, of *living Fame*; and to whom, *God-father-like*, he pro-

I have

I have now done with what I had to offer in Addition to that *very, very* important Subject, "the Doctrine of the Omnipotence of Parliament;" and here ending my Endeavours to point out to you the Source of our present political Distractions, their proposed Remedy and Redress become the next Object of your Consideration. And as by the *former*, my Design has been to prove, that this Doctrine of "the Omnipotence of Parliament" has been not only the Source, but the *unconstitutional* Source of our present political Distractions; so, by the *latter*, the setting aside that Doctrine, is, in the very Act of its Removal, both the Cure of the Evil, and the Remedy proposed. But of this briefly in Detail.

I have observed, that a Principle at the Time of the Revolution was introduced, which afterwards became an acknowledged Principle in the

promised and vowed three Things in their Name: *First*, that the Parliament should be omnipotent; whereby, although they, *in themselves*, would become the *Vassals* of the Crown; *of themselves*, they would be the *Tyrants* of the People: *Secondly*, that a Revenue should be procured from America, in order to ease them of the Burthen of the Land-Tax: And *thirdly*, that Trade should be destroyed: For Tories hate Trade, as Oil does Vinegar; they never mix, as witness, the four last Years of Queen Anne's Reign; and for good Reason: Trade begets Wealth, Wealth procures Independence, Independence protects Liberty; and Tories, in their very Definition, are the Enemies of Liberty. It is however said, that there is now a great Misunderstanding between this *God-father* and his *God-children*; and which is likely to bring an *old House* about his Ears. The *God-children*, it seems, complain, that out of the *three* Things promised and vowed in their Name, God-father-like, only *one* has been performed; to wit, *the Destruction of Trade*. And now Experience hath taught them, that the Destruction of Trade was lowering the Price of their Lands, lessening the Value of their Rents, rendering unsaleable their Home Commodities and Manufactures, throwing the Poor and the unemployed upon their Hands to maintain, and, in short, making absolute Dupes of them. What a Pity, as the only Dupes, these Tories had not been the only Sufferers!

Government, upon which a System was to be erected; and by which the Administration of the Government was to be carried on: And that this Principle was, *Corruption*. But this will require some little further Explanation. And here I will say, that although Corruption, *as a System*,* might take its Date from the Epoch of the Revolution; yet the Corruption of those Days, and from that Time to the Demise of George II, was as different in Aim, and View, to the present Object of Corruption, as any two Things can possibly be. The Corruption of the Reign of King William, I was almost about to say, was a *laudable* Corruption; and indeed as far as *wicked* Means can be justified by a *good* End, it was laudable: But that it was a *necessary* Corruption, and to the full as good in Essence, as the Persons for whose Use it was devised, no Friend to this Country will deny. An *unworthy* King had been driven out of the Kingdom, and if he had taken his *Unworthies* along with him, there had been no Need of Corruption; and Corruption had not existed: But instead of this, he left behind him such Tribes of Jacobites, Tories, and Priests, so numerous and powerful in Opposition to the then Settlement; that as to appease the wicked Loyalty of these Wretches, (and who had been otherwise in Rebellion to Liberty) a wicked Sacrifice to Mammon

* It is certain that Corruption was practised before the Time of the Revolution; and it is said, by Lord Bolingbroke, that "the Expedient of corrupting Parliaments began under the Administration of that boisterous, overbearing, dangerous Minister *Clifford*." But as "the necessary Supports of such Means were not yet acquired," to use the Words of the same noble Writer; so is it as certain, that Corruption was not, before the Revolution, reduced into a System; nor considered, as it is now, the ruling Principle of our Government.

was the only Expedient; so, to appease this Loyalty was of this Sacrifice the only View. And as this Necessity continued, of which the Rebellions of 15 and 45 are flagrant Proofs, to the Period of Demise mentioned; so again, farther than this Necessity gave Occasion to Corruption, Corruption had no Object. For will any one say, that arbitray Power was the Object of the Reign of William III? Was it of Queen Anne's Reign? * Was it the View of the Reign of George I? The Histories of those Times do not tell me so. Was it of George II? His Fame is still alive, and daily Comparisons serve but to make it live for ever. What then was the Object of Corruption? I have already said: to stop the Mouths of the discontented; to prevent Rebellions, which, however, it could not effect; to save, and not to murder the Constitution.

But let us turn our Eyes to the present Times: to the present Reign: to that Reign in which, no one Reason, that gave Occasion to Corruption in the former Reigns, exists. No Controversy about hereditary Right: no Pretender to the Crown, or next to none: no German Prince upon the Throne: but a Briton, as I am taught to say; though his Majesty was born in England. † And let us ask what is the Object of Corruption *now*?

* The Tories of this Reign, when in Power, made one desperate Push to bring back the Stuart Family; and to place the then Pretender on the Throne; but this was no more than the convulsive Agonies of their dying Tyranny, at that Time, in this Country; and as to arbitray Power, that was only *in Ordine ad*, in Case of Success, and not the View of the Reign itself.

† If his Majesty had been born in Wales, or in Scotland, or before the Conquest of the Anglo-Saxons, he had been born a *Briton*: But being born *since* the Conquest of the Anglo-Saxons, and in *England*, as this Country has ever since been called, it would seem as if his Majesty had been born an *Englishman*.

Look

Look to that "absolute *despotic* Power which "must in all Governments reside somewhere:" Look to *arbitrary* Power in a *free* State: Look to "the Omnipotence of Parliament," and see the Object *there*; "*robed* in Divinity, *majestically* "sweet," with the *Bawd* Corruption *pimping* for the Embrace. Such is Corruption's Object now, and this the Difference in its Aim and View. Here too is the Evil, in its Means and End; but where the Remedy is, is now the Subject of Inquiry.

Perceiving, as many zealous and worthy Patriots have done, the Ruin and Destruction which the Male-administration of our Government have been headlong driving this Country into, Remedies for Reformation have not been wanting in Proposal. A *Place and Pension Act* has been thought a fit Expedient, *short Parliaments* have been repeatedly called for, and a *more equal and adequate Representation of the People* required.*

* This Proposition of "a more equal and adequate Representation "of the People" is, as it would seem, founded upon the same Mistake of the Nature of Representation, that has led our puny Politicians of this Reign into that absurd Distinction, and still more absurd Reasoning concerning a *real* and *virtual* Representation in Parliament. The Mistake is, that *Persons* or the *People* are the *Objects* of Representation: Whereas the *Fact* is, that *Property* is the *Object* of Representation, and not *the People*. The Members for Counties are the Representatives of the *landed Interest*, and not the Representatives of the *Persons* by whom they are elected, but of the *landed Property* of those *Persons*, and through them of *all the landed Property* in the Kingdom. Just so the Members for Cities and Boroughs are the Representatives of the *monied* or *trading Interest* of the Kingdom at large, and not of the *Persons* of the Pot-wollopers or Chimney-sweepers who may perhaps be their Electors. If therefore on the one Hand the Representation of the landed Interest is inadequate, that Representation must be made good in Proportion to the Quantity of Land that is occupied, and not in Proportion to the Number of its Occupiers: So on the other Hand, if the Representation of the monied or trading Interest be inadequate, this Representation must be made good in Proportion to the increased Quantum in both, and not in Proportion to the increased Number of monied Men and Traders,

Each

Each excellent in itself, all useful, and proper. But viewing this Subject in the Light I have just thrown it, reflecting that what Corruption was, Corruption, now, is not; may it not be a Question, Whether these Remedies, looking as they seemingly do, to the Prevention of Corruption only, would, under these Circumstances, be found fully adequate to the Reformation wanted? Will they not be *Palliatives*, instead of *Specifics*? And although they may *mend*, is it sure that they will *cure* the Evil? For myself, I must confess, these are my Doubts; and I will state my Reasons for them.

I have said, that these Remedies look, seemingly, to the Prevention of Corruption only; and if Corruption was itself the Evil, the Prevention of Corruption was the Cure of the Evil: But Corruption is not itself the Evil; it is in order to the Evil. The Evil is arbitrary Power. Corruption is the Handmaid to arbitrary Power. It is, And thus it is that the whole Property of the Kingdom, and of Course its whole Interest, which must consist either of Land or Matters of Trade, being represented, the whole Kingdom is represented, though it may not be adequately so; the Members of Counties being the Representatives of all the Land of England, for the Interest of that Land, whilst the Members of Cities and Boroughs are the Representatives of all the Money and Trade of England to the same End. Hence it was that Lord Camden, in his great Wisdom, has said, "That there was not a Blade of Grass in all England that was not represented." And why? Because the Interest of that Land whence the Grass grows, and not the Owners of that Grass, was the Object of Representation. What are the Members of the two Universities the Representatives of? Not of the Students, for they are already represented either in the landed or trading Interest: but they are the Representatives of a supposed Property in *Literature*, and the Protectors of the Rights thereunto belonging. In the Reign of William the Norman, all the Lands of the Kingdom, which was the only Property, there being then no Commerce, were in the Possession of Seven Hundred People only; and therefore they, in their *collective* Capacities, not only composed the whole Legislature, but engrossed the whole civil Authority of the Kingdom into their Hands.

as I have said before, the *Bawd*, the *Procurefs*, or the *Pimp*, of arbitrary Power: But it is not arbitrary Power *itself*. It is the Means to an End; but not the End *itself*. Arbitrary Power is the End, Corruption the Means to that End. But it may be said, that to remove the Means is to take away the End; and if Corruption were the *only Means* to arrive at arbitrary Power, the Assertion had been true. But to the same End, there are many Means; and so is it in the present Case. As for Example. Let these Remedies do away Corruption *entirely*, suffer arbitrary Power to remain as a *constitutional* Doctrine, leave the Administration of the Government in the Hands of Tories; and arbitrary Power follows in Adoption *upon Principle*, as surely as the Means of Corruption would have procured it. Hence therefore it is plain, that to take away the Means, and to leave the End, is not to perform the Cure: For *Principle* will supply the Place of Corruption. Whereas to take away the End, which is arbitrary Power, not only the Means of Corruption are done away; but *all other Means* to that End must inevitably perish with it.

Of these Remedies then, these are my Ideas. My Objections are not to their Propriety, but to their Insufficiency. The one I have endeavoured to prove, the other I have acknowledged. If therefore I am mistaken, my Mistake is not wilful; and my Error pardonable. I will add too, that even the Insufficiency of these Remedies had not been suggested by me, without conceiving that some Plan of Reformation, more pointed to the Purpose, might be adopted; for any Remedy is better than none, and to find Fault, without attempting

attempting to mend, is to play that Part of a Critic, which I neither know, nor desire to learn.

It remains therefore, that the Plan of Reformation, to which I have alluded, be now submitted to your Censure or Adoption, as it may appear to merit the one, or deserve the other. And here, however great my Anxiety is for the Salvation of the Constitution of this Country, however willing to adopt any Measure whatever to this End, even that of Resistance itself; (I mean such Resistance as the Constitution admits) if the Proposition which I had to make was unsupported by any other Authority than that of my own, my *mental* Courage (for the Courage of the Heart is not to be parted with in Times such as these are) would fail me in the Attempt. But when I consider that what I have to offer is not only founded on the Authority, and established by a Precedent of the Constitution, but is supported by *Reasons*, so wise, so prudent, so unexceptionable, and so conclusive, *that are not my own*; Fear is converted into Fortitude, and Confidence supplies the Place of Doubt.

Standing therefore upon its own Basis, and in three Words, the Plan is this; *Settle your Constitution.* And Reformation succeeds,

“ *Velut Unda supervenit Undam.*”

This is the Beginning, this the Middle, and this the End of Redress. And let your first Monitor be that of *Shame*. *Shame!* that in an enlightened Country, in a Country whose Government is subjected to a *Constitution*, and in a Country where, although the *Term* is in the Mouth of every Body, the *Constitution itself* (as if by the Designs of the wicked Few) is to be wrapped up in Clouds

Clouds of mysterious Darkness; so little known, that no two Persons can agree in their Ideas upon the Subject, always undefined, ever abused, and of late so perverted, shocking to relate! as to have it repeatedly declared even from the high Authority of the Throne itself, that Taxation without Representation, and of Course "the "Omnipotence of Parliament" is a *constitutional* Doctrine, to be maintained by the Blood and Treasure of England. A Declaration that annihilates the very Idea of a Constitution, and, whilst it converts *Government by Constitution* into *Government by Will*, lays the Axe at once to the Root of the Tree, and *Liberty* is no more. *

* In all other Reigns when any *novel* Measure of State was to be adopted, the Legality of such Measure was to be decided, by the Opinions of the Twelve Judges; and then the Judges were the Objects of Bribery and Corruption. When Charles I. levied Ship-money, he bribed the Judges to say, that he had a Right to do so. Why then was not the *novel* Measure of taxing America, in order to raise a Revenue for this Country, referred to the Judges of our Days? The Reason is obvious: *Those* were the Days of *Prerogative*: *Those* are the Days of "the Omnipotence of Parliament;" and so Corruption hath changed its Ground. When *Prerogative* was opposed to Law, the Judges were the necessary Tools of Government. To misconstrue, misapply, and pervert the Law was almost *professional* amongst them; and this was the Channel through which Corruption passed. But now that "the stern Commands of "Prerogative have yielded to the milder Voice of Influence," as Sir William Blackstone *well* expresses a very *bad* Idea, *Prerogative* is swallowed up in the Law, "the Omnipotence of Parliament" succeeds, and Corruption stains the Fountain Head: *Then* were the Judges dependent on the Crown: *Now* the Statute of the 1st of Geo. III. c. 23, hath set them free. And why? Not for the chaste and pure Motives that have been ascribed to that Statute, but for the Reason that Corruption hath changed its Ground: Not because Justice should be incorrupt, but because Legislation may be corrupt. And therefore as with the Judges no Temptation to Corruption is left, and with Government, through them, no Necessity for it; so the Fact is, that when any *novel* Measure is now to be adopted, in *Vulcan's Shop*, the *Cyclops* are always ready, with the Hammers of Corruption in their Hands, to forge the *Thunder-bolts* of *Jupiter* for *omnipotent* Use.

Here

Here then is your Remedy, take it, and for *Shame* make Use of it; for something *more* than *Shame* adopt it: For in a Matter of this national Magnitude, of this *first* Importance to Society, Ignorance is Criminality, and Want of Certainty, Reproach.*

But now the Question that arises is, in what Manner is this Remedy to be obtained? For although it may be desirous in *Speculation*, in *Practice* it may prove unattainable. But in this, as in the former Proposition, the Proof lying in the Proposition itself; the Proposition is, briefly this: Obtain it by an Act of your own Legislature: by an Act for *Uniformity in the State*, declaratory of the Constitution, and of those *fundamental* and *irrevocable* Laws upon which the Administration of the Government is built, and by which it is to be directed. And such, both in *Matter* and *Manner*, is the Plan of Reformation proposed. A Plan no less easy, plain, practicable, adequate to the End, and sure in Effect; than *constitutionally* supported by the *Authority*, the *Precedent*, and *Reasons*, which I have already alluded to: and to which it would be now necessary for me more particularly to advert, if the very Mention of *Uniformity in the State* did not, in the Instant, bring to every Mind the already obtained *Uniformity in the Church*. An Authority and Precedent, precisely in Point; and not only so, but who is he that, in approving the *latter*, does not see ten thousand stronger Reasons for adopting the

* If the *Collegiate* Body adopt this Remedy, and the *Legislative* Body refuse to execute it, a real Proof of "the Omnipotence of "Parliament" will be given.

former? Shall it be said that the Church, *as established by the State*, is better worth preserving, than the State itself? Shall it be said that the Church is wiser than the State? † Or that Churchmen are more wary and provident even of their *temporal* Interest than Statesmen are? Shall *Thirty-nine* Articles, the *Entities* of metaphysical *Non-entity*, in some Respects, staggering the Faith even of the Faithful, and in others, surpassing all human Understanding; shall these be Fundamentals for Uniformity, for Faith and Practice in the State? And shall the *Rights, Liberties, and Privileges* of the State, the Offspring of Common Sense, founded on Matter of Fact, knowable, and essential to be known by all, be hid in Obscurity, and left in Uncertainty, nay even in the Jeopardy of Destruction by the very State to which they belong? To the *former*, Objections may be raised. Many may say, as many do; I do not desire to partake of the Rights of your Church. I do not understand them. I will not accept them. But to the *latter*, where can the Pretence of Objection lie? Will any Man say, I do not desire to be free. I do not wish to enjoy the Liberties of Englishmen. I do not choose to see them secured. I had rather be a Slave. And so he who objects to Uniformity in the State must say. But I am reasoning upon a Subject which I have already referred, for its Support, to the *Reasons* of another; and which rendering any Arguments that I can sug-

† There was a Time when the Church was wiser than the State, for there was a Time when the Church could read, and the State could not; and this may easily account for *Uniformity* in one, and not in the other. But now that *both* can read, the best *Privilegium Clericale* we can have, is the *Benefit* of their Example for *Uniformity*.

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gest superfluous, and unnecessary, I have only to direct the Reader to "REASONS for Uniformity in the State," by Roger Acherley, Esq; being a Supplement to that most admirable Work of his, "*the Britannic Constitution.*" A Work, in the whole, full of Instruction for the present Moment. * And now, whilst I rest satisfied, that no Argument whatever, except that great Argument of State, the *Argumentum baculinum*, can, in Opposition to these *Reasons*, have any Weight, Force, or Effect; so in conclusion of the Subject,

* This excellent Author says, "The Design of this Supplement is, to unite the two contending Parties of *Whigs* and *Tories*, in the true Notion of the Constitution of the British Kingdom and Government; as the only expedient to pull up by the Roots all Seditions, Tumults, treasonable Conspiracies, Rebellions, and even Party Distinctions, except that one, viz. *Of those who are for the British Constitution, and those who are against it, being a Distinction that ought to be perpetual*: Which desired End can never be effected, without an *Act for Uniformity*, and for that Purpose to shew, &c."

Again: "The Insecurity or Infirmary of the Constitution in the State, ariseth from the Want of *Uniformity* in Mens Minds, and for Want of the People's knowing it, and from their Disputations and Questions about *what are*, and *what are not* the fundamental Parts of the Constitution."

He likewise says in his Dedication, "The People of antient Rome and Greece treated such Men as introduced good Laws, with uncommon Honour. It is therefore apprehended, that if *Uniformity* in the State were enacted in Great Britain, it would produce a national Stability meriting equal Honours; forasmuch as the fluctuating Opinions, about what are the *fundamental* Rights of the Crown, and what of the People, have often engaged the *Governors* and *Governed* in hostile Contentions, rendering the Nation weak by Divisions, which, in former Times, excited neighbouring Potentates to invade and wrest away those very Rights both Parties contended for; and in our Times, unquestionable Authority hath informed us, that the same Causes are engendering the same Effects." See Acherley's *Britannic Constitution*, with the Supplement thereto, Fol. Ann. Dom. 1727. From these Specimens the Reader may perceive the Tendency of this Work, and forejudge the Satisfaction he will have in the Perusal of it.

and that nothing may be omitted which may tend to give Effect to so important an Undertaking, I will take the Liberty just to State my Ideas, in Outline only, of the Frame of the Bill that may be necessary for the Adoption of Parliament, in order to the End proposed; leaving its Completion to that *united* Wisdom, which such a Proposition calls for, and must of Course require.

In the first Place then, this Bill, in order to an Act, may be entitled, an Act *declaratory of the Constitution, for settling the Constitution, and for obtaining Uniformity in the State.*

In the Preamble, the Reason and Occasion of this Act, will of Course be stated, its Propriety shewn by the several Acts already passed for Uniformity in the Church,* and its Efficacy and Effect deduced from the Efficacy and Effect of that Example. It will then proceed to state and declare,

Article 1, What the Prerogative of the Crown is; and if it be, according to Sir William Blackstone, so *certain* and *notorious* that it cannot be exceeded without the Consent of the People, in this no Difficulty can occur.

Art. 2, What the Privileges of the House of Lords are.†

* See 1 Eliz. xiii. and xiv. Char. II.

† For a Review, *at least*, of the Privileges of the House of Lords, there wants no stronger Reason than the *late* Exertion of them, in the Case of William Parker, Printer of the General Advertiser. An Exertion, to which it were to be wished that the House, for its own Sake, would turn its most serious Attention. A Man is complained of for publishing what is *supposed*, and not *proved* to be, a Libel. This Man is ordered to the Bar of the House. He, conscious of the Publication, and knowing that his coming to the Bar can only tend to *criminate* himself, does not appear. What then?

Art.

Art. 3, What the Privileges of the House of Commons are. § Of both which last, the *sober* Examination, and the *candid* Reports of their own Committees of Privileges will of Course be received; intending, so far from taking away either from the *legal* Prerogative of the Crown, or the *just* Privileges of Parliament, that *both* may

An Usher of the Black Rod, no Constable, without Warrant, by mere Resolve of the House, is ordered to bring him by Force to the Bar. And what further? By mere Resolve again, he is committed, without Accusation, without Defence, without *Trial by Jury*, to close Imprisonment, until he shall give up the Rights of his Fellow-Subjects, by acknowledging this Power in the House; and thereby placing an unconstitutional Precedent upon the Journals, to be drawn into Use for the same unconstitutional Purpose at other Times. But admit this single Position only, that the Privileges of the House of Lords cannot *annul* the Constitution, nor *repeal* Acts of Parliament (and who is it that will maintain a contrary Doctrine?) and the Case of this Man is so gross a Violation of both, that Precedents in Support of it serve but to enhance the Violation. Can the King take away the Liberty of the Subject in this *summary*, and, of course, in this *arbitrary* Way? Every Body knows that this Power is not in the Prerogative of the Crown, even in Cases of High Treason. And if the *executive* Power is not entrusted with this Authority in any Case, shall the Privilege of Parliament claim it, and claim it too in the Case of a Libel? But it is necessary; for this is the Plea. But Necessity is the Tyrant's Plea. Besides, how can *Illegality* be necessary for Redress, when *Legality* has already provided the most ample Means? Let this Case, therefore, be among those many Arguments which now so forcibly cry out, "*Settle your Constitution.*"

§ For the Necessity of a Review of the Privileges of the House of Commons, look to the *Middlesex Election*, and see the *audacious* Use that has been made of them there. An Use that ought to make the Blood of every *Electer* in the Kingdom boil in his Heart, as in the Caldron of Macbeth's Witches, never to subside, till this wicked Precedent be torn from the Journals of that House; and, the Usurpation, like the *Royaute* of the French Parliament by Lewis XI, *mise hors de page*. But this Matter has been so fully, and so often set in its true Light, by that real Patriot, and Friend to his Country, Mr. Wilkes, whose Case it was; and has been painted in Colours so much stronger than any others, and which are so peculiarly his own, that to *refer*, and not to *explain*, is the intended Business only of this Note.

be *extended in all Cases whatsoever*, where the Good of the Community is the *direct* Object ; and where they do not *in any Respect whatsoever* interfere with the Rights, Liberties, Privileges, and Immunities of the People at large.

Art. 4, What the Rights, Liberties, Privileges, and Immunities of the People at large are ; as well those *natural* Rights which are by their Nature *unalienable*, as those *reserved* Rights, which Compact, and immemorial Usage, and Custom, have interwoven with, and established in the Constitution ; as the *fundamental* and *irrevocable* Laws of the Land, subsisting, and existing, between the *Governors* and the *Governed*. †

Art. 5, That these Rights of the Crown, of the House of Lords, of the House of Commons, and of the People, constitute the *material* Part of the Constitution ; as the King, the Lords, and the Commons form the *formal* Part thereof, in order to the Execution of its Government, which is

† If such an Act as this had existed before the American War, *Representation in order to Taxation*, had, in this Schedule of the Rights of Englishmen, of course appeared. And what then ? Why then neither the Corruption of the American War, nor the American War itself, had ever taken Place : For the End of the American War was to establish the *arbitrary* Power in Parliament of *Taxation without Representation*, and the Means to obtain that End was Corruption. But of what Use is a Bawd to obtain the Chastity of Cæsar's Wife, when the Chastity of Cæsar's Wife must not even be suspected ? When, to speak without a Metaphor, Representation in order to Taxation was a fundamental Law of the Land, which Parliament cannot take away, nor repeal, nor yet dare to counteract ? In this single Instance then is seen the Utility of the Act proposed. It cuts up arbitrary Power by the Roots, and Corruption rots with the Tree itself upon the Ground : For in this Case again, as well might Lord North now say, I will be the Archbishop of Canterbury without subscribing to the XXXIX Articles, as for him to have said, as he did, with all the Corruption of the Treasury about him, I will tax America without Representation.

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founded upon, and must *universally* be directed by, these *Rights*: That these Rights as *natural* Rights are *unalienable*, and as *political* Rights *fundamental* and *irrevocable*, whilst the Constitution lasts; and that the Constitution (*quoad* these Rights as well as its Form) cannot be altered in any Degree, but by and with the Approbation and Consent first had and obtained of the *whole Body* of the People called upon for this *special* Purpose, in their *collective*, in order to their *representative*, and not in their *elective* Capacities only.

Art. 6, That the *supreme legislative Authority*, (the Objects of which are the *Duties* and *civil Rights* of the People) is vested in the King, in the Lords, and in the Commons, and no where else; and that (*quoad* these Duties and Rights) as arising out of, and depending upon, the *natural* and *political* Rights of the Constitution, this Authority is “ absolute and without Controul.†

Art. 7, That for the Preservation of these Rights, and that they may be handed down to Posterity inviolate and inviolable, and in order effectually to carry into Execution the good Intentions of this Act; a *Test* must be adopted suitable to the Occasion: A *Test*, to which not only every Description of Person who may have the least Concern in, or Interference with the Offices or Functions of the State, but every *Teacher*, *Preacher*, or other *Professor* of every Species of Religion (all tolerated *universally*, and without *Limitation*

† “ As Men have given up their natural Independence to live “ under *political Laws*, they have given up the natural Community “ of Goods to live under *civil Laws*.” See Spirit of Laws, v. ii. p. 210.

as *Religions*) shall (by the Provision of fit Pains and Penalties) be forced to subscribe and conform. §

§ This Act being intended for Uniformity in the State, the Clergy, for Reasons alluded to in the Note of Page xlv, have not been in their *political* Rights distinguished from the Rest of the People at large; nor ought they, on any Account to be so. With Respect to their *civil* Rights or Duties, which are the Objects of Legislation, these no Doubt, so far as they extend to the Exemption of personal Services in certain Cases, of Course remain. But why the Body of the Clergy should, by the fundamental Laws of the Land, be separated and set a-part from the Rest of their Fellow-subjects, Common Sense cannot account for; and, it is conceived, no other Sense has any Thing to do with the fundamental Laws of Society. Why should not the Navy, the Army, the Body of Law, and Physic, have *exclusive* Rights in their *political* Capacities, as well as the Clergy? And for better Reasons, because these are made essentially serviceable to the State, by the *civil* Laws of the State; whereas the Clergy, in many Cases, are rendered unserviceable to the State, by the same Laws. If the Clergy enjoy the Security of *Life, Liberty, and Property*, equally, to the full, and in common with the Laity, the Clergy in their *political* Capacities can desire no more; but this is said of their *political* Capacities merely: for as to their *religious* Capacities, they ought not only to be distinguished from the Laity, but the Line to be drawn between the Church and the State should be so *decisively* plain, and *mathematically* true, that no Interference one with the other can possibly take Place; the proper Object of each being as different the one from the other, as Matters *spiritual* and Matters *temporal* can make them; as Body and Soul can be. The *Care* of the Church is the *Cure* of Souls. The *Care* of the State (though too often the Killing) is the Preservation of Bodies. These are their characteristic Differences, and the natural Reasons for their Separation: but there is a Reason of Policy too. Never had the Church the upper Hand in the State, that the most barbarous Government did not follow. Never did the Church interfere with the State, that Mischief did not ensue. At this very Time, the Interference of *some* of the Clergy, with the Quixotism of Ministers, to establish and maintain the *canon* and the *feudal* Law in America, has made the War in that Country another *Crusado*. Hence, therefore, no Objection arises to the Uniformity of the Church already obtained. but on the contrary inasmuch as it relates to the Religion of that Church, that Uniformity is fundamental and constitutional. The State, it is certain, has an undoubted Right to make Choice of a Religion; by which is meant, whoever approves and chuses to adopt that Religion, shall partake of those *Loaves and Fishes* of the State which are the Appropriations thereof: but this Establishment should go no farther than this, for beyond this it is to be intolerant;

Art.

Art. 8, That this Act is *enactive* of no new Rights, but *declaratory* only of the *original*, an-

and Intolerancy in a free State is, or ought to be, a Contradiction in Terms. Presuming this then to be the Case of the present established Religion, as, on the one Hand, no Objection arises to it, so, on the other, being the Institution perhaps the most analogous and consentaneous to the Constitution itself, it is insomuch the fittest for Adoption; for whilst it has as much of the Hierarchy, or old Leaven of Popery therein, as may be necessary for the Trappings of Majesty, and the Exercise of Faith, it has, it is to be hoped, at the same Time, as much of the Spirit of Protestantism in it, as to have Reason for its Guide, and Liberty for its Object; and so therefore obtains, as it were of Right, the Preference of the State.

It is for these Reasons too, as well as for many others not to be comprehended in a Note, that without the Adoption of the Test proposed for Uniformity in the State, the present Policy of the State, with respect to the Roman Catholic Religion, cannot cordially be approved; and that this does not proceed from the Spirit of Intolerancy, it is thought that if Captain Cook had been directed to bring Home with him a Priest of every Religion, that he could meet with in his intended Voyage round the World, to be tolerated as well as encouraged in this Country, it had been probably the best Object of his Mission: For as all Reasoning is comparing, so it being by comparing that Truth from Falsehood, Right from Wrong is distinguished, it had been found perhaps, upon Comparison, that the Religion of the Church of England was, of all other Religions, the best; and if it were not, the same Comparison might afford an Opportunity to make it better. Nor does this Objection arise from any Prejudice conceived against the Roman-Catholic Religion itself, *as a Religion*: for surely every Man, and more especially every Englishman, because a Freeman, has a Right inherent in himself, to worship God, and “to save his Soul alive,” in whatever Manner he pleases. And so, if Transubstantiation be the Road of a Papist to Heaven, who is it to put him out of his Way? If he chuses to give himself an annual Flogging, by Way of Penance, for his Sins, as the Sect of Lacerating Friars do; who is to prevent him? If he chuses to fall down on his Knees in the Streets to worship an Image, what Harm is there done, except in daubing the Knees of his Breeches? Let the Roman Catholics therefore have their Religion, so far as it is to carry them to Heaven, in every Manner or Way, both in Faith and Practice: But let their *Religion* be confined to this, by every Lock, Bolt, Bar, or Iron, that human Wisdom can devise, or the State provide. Every body knows that to the Popish Religion is annexed a *System of Politics*, which being founded on the *absolute Dominion* of the Pope, *both in Church and State*, and that both are equally the

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tient, and *fundamental* Rights of the *Constitution* both in *Matter* and *Form*; that, *as such*, it shall be held, deemed, taken, and received; and that therefore, whilst it can be subject to no *Repeal*, or *Alteration* therein, any Attempts to this End shall be considered, *eo instanti*, in the Movers of them, as *High Treason* against the State, to be tried and punished, as Offences for High Treason are, and, if condemned, to be out of the Power of the Crown to pardon, &c. &c. &c. †

This, or something like this, may be the Basis, on which this noble Edifice is to be built. An Edifice which, as founded upon human Nature, will last, whilst human Nature exists. An Edifice so large and comprehensive, and so disposed in all Subject of Faith in its Professors, this *Dominion* is so big with Danger to the State, that the Toleration of this Church can be only adjusted by the most *unequivocal* and *explicit* Subordination in its Professors to the State. Speaking of the Toleration of this Religion in England, even a Roman Catholic himself, Baron Montesquieu, has these Words: "If amongst the different Religions, there is one that has been attempted to be established by Methods of Slavery, it must *there* be odious; because as we judge of Things by the Appendages we join with them, it could never present itself to the Mind in Conjunction *with the Idea of Liberty*." [Spir. of Laws, vol. 1. pag. 447.] Upon the whole then, let the Test proposed separate the *Politics* of the Roman Catholics from their *Religion*: Let the one be the Subject of *perfect* Toleration: let the other be the Object of the most *determined* Persecution: let their *Religion* lead them to Salvation, but let their *Politics* be led to Destruction: For where *Liberty* is to live, *Slavery* must not reside.

† The Drift of a late Publication, by Mr. Eden. in Address to the Earl of Carlisle, being evidently to *shew* how this Country *may* and *ought* to GO ON in its present Measures of *Folly* and *Wickedness*; and the Drift of this Plan of Reformation, being as evidently to *prove* how it *may* and *ought* to GO BACK to its first Principles and better Times; two such Politicians being not likely to *meet*, either here or hereafter, the Test of their Politics must be the *Sense* of the Nation in its Measures of Adoption.

its Parts, for the Comfort, Happiness, and Welfare of Society, that it may not only bring back our lost Brethren in America to live under its happy Roof, but may tend, in England's Fellowship, to assimilate all human Kind. Under our present Circumstances, the Habitation we are in, not affording even Shelter for its own Inhabitants; so far from inviting others to come among us, ourselves will be driven away to those better Regions, where the *Happiness* of Mankind, and not their *Misery*, is made the Object and End of Society. †

† Shall it be said, that every Government that has had the Shadow of Liberty only, in its Texture, shall have had, or still has, its *fundamental* Laws preserved, even with the *Holiness* of Care; and shall the *fundamental* Laws of that Country, where the *Substance* of Liberty is said to exist, be in a State of Doubt, nay even in Contempt, and Neglect? The Laws of *Moses* had the *Ten Commandments* for their Fundamentals. Were they ever doubted, were they ever contemned, were they ever neglected as Fundamentals? Were they ever repealed by any Authority whatever? Are they not still in Force, and are they not likely to continue so, unless repealed by "the Omnipotence of Parliament?" Greece had its XII Tables, and are we not told, that from these XII Tables, "as the Source" and Fountain of Right, issued all the Streams of public and private Law and Equity, by which the Commonwealth was regulated and governed?" See Mart. Philo. Lib. tit. Jur. p. 471. Had not Rome its XII Tables, borrowed from Greece, and of which Livy says, "In immenso aliarum super alias Acervatarum Legum Cumulo, fons omnis publici privatique Juris?" Has not Germany its Golden Bull, and "which, even at this Day, they strengthen and make Supplements to, by new Capitulations upon Occasion, according as the Emperors abuse their Power, or that Tricks are devised, by Colour of the Letter, to elude the honest Intention of that fundamental Law and Constitution?" See Use and Abuse Parl. vol. 1. p. 29. Had not Sweden its Monarchy limited by the Laws of its Constitution, until *Gustavus Vasa* (whose Example we have been, in this Reign, bid to follow, "kill them, or they will kill us,") made the Kingdom absolute and hereditary in his own Family? Had not Denmark its Charter of Danish Liberty, but now indeed its *Lex Regia*? Had not Poland its *Pacta Conventa*, till of

I have now done, what I had conceived it was my Duty to do; for to have possessed Sentiments such as these are, and not to have given public Utterance to them, would have been to have abandoned those *social* Duties, which, as a Member of Society, I am bound to maintain. For the Sentiments themselves therefore I have no Apology to make. They are the Result of *Common Sense*, (I mean that Sense which is *common* to us all, the Sense of distinguishing between Right and Wrong) and not the *Metaphysics* of Politics; nor the Wanderings of the Imagination into the airy Regions of Utopian Commonwealths. My Object has been the *Constitution* of England, my Arguments *Facts*, my Conclusions *their Consequences*. The Plan for Reformation proposed, *simple* and *plain*. The Means to effect it, *tranquil, easy, constitutional, and efficient*. I must therefore repeat, that for Senti-

late swallowed up by a three-headed Monster of arbitrary Power? Has not *Switzerland* its Treaty of Alliance between the Cantons of *Uri, Switz, and Unterwalden*, for their mutual Defence, and Conservation of their Lives and Liberties, and which is still held sacred and fundamental? Has not *Holland* its Treaty of Utrecht? Have not the *Jews* their fundamental Articles even for their *dispersed* Government? And what has *poor Old England*, the Land of Liberty, as it is called? Talk of the Revolution, and the Bill of Rights, and you are guilty of High-Treason. Speak of *Magna Charta*, and, as a Proverb of Reproach, a *filthy Rhyme* is to be coupled with it. And shall these Motives have no Effect towards *Reformation*? Let the Guardian Angel of Liberty, let the Majesty of the People of England forbid it! The Object of the Settlement at the Revolution was the *Limitation* of the Power of the Crown. Let the Object of Settlement *now* be the *Limitation* of the Power of Parliament! Let it be said what Parliament CANNOT do! And then what it CAN do, will be still Power enough left for any *free Government* to possess. As it is, the Power of Parliament is said to be *unlimited*, and under such *Unlimitation* the Rights of the People have been taken away.

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ments such as these are, I have no Apology to make. But in all other Respects great Candour is necessary, much Apology is due. Much Apology is due, for the Length of this Dedication; and the Apology is, that I have not had Time to make it shorter: For although the Subject-Matter has been long, and constantly the Employment of my Thoughts; the *Composing*, the *Writing*, the *Printing*, and the *Correcting*, from Page xxiii. of this Dedication to the present Period of Writing, has been accomplished since the Recess of Parliament, within the Space of six Weeks. Had it been otherwise my Thoughts had been more concentrated, and in gathering the *Fruit*, I had rested to have culled the *Flowers* also. As it is, I have only to say, that Truth was my Object, that Truth is naked, and that the *Nakedness* of Truth is perhaps its first and fairest Ornament. This for myself. The Rest depends on you. Great is the Hour, weighty the Business, and important the Occasion. Let the following Quotation, therefore, from a very excellent Writer, as serving for your Use, be also my Conclusion upon the whole.

“ As the People are the Fountain of Power and
 “ Authority, *the original Seat of Majesty*, the Authors
 “ of Laws, and the Creators of Officers to execute
 “ them; if they shall find the Power they have con-
 “ ferred abused by their *Trustees*, their Majesty vio-
 “ lated by *Tyranny* or by *Usurpation*, their *Authority*
 “ *prostituted to support Violence or screen Corruption*,
 “ the Laws grown pernicious through Accidents
 “ unforseen or unavoidable, or rendered ineffectual
 “ through

" through the *Infidelity* and *Corruption* of the
 " Executors of them; then it is *their Right*, and
 " *what is their Right is their Duty*, to resume that
 " delegated Power, and *call their Trustees to Ac-*
 " *count*; to *resist* the Usurpation, and *extirpate*
 " the *Tyranny*; to *restore* their *sullied Majesty*,
 " and *prostituted Authority*; to *suspend*, *alter*, or
 " *abrogate* those Laws, and *punish* their *unfaithful*
 " and *corrupt* Officers. Nor is it the Duty only of
 " the *united Body*; but every Member of it ought,
 " according to his respective Rank, Power, and
 " Weight in the Community, to concur in ad-
 " vancing and supporting *these glorious Designs*." §

§ See Elem. of Mor. Philos. pag. 46.



THE END.

